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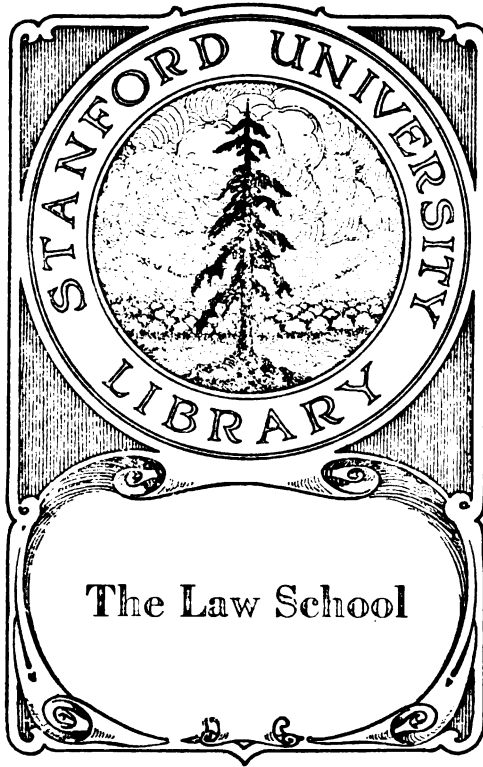
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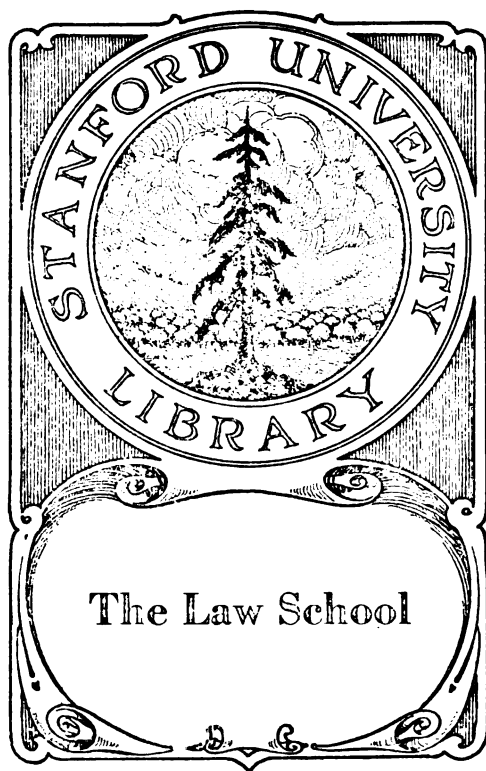
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The American Law School Review

An Intercollegiate Law Journal

S. E. Turner, Editor

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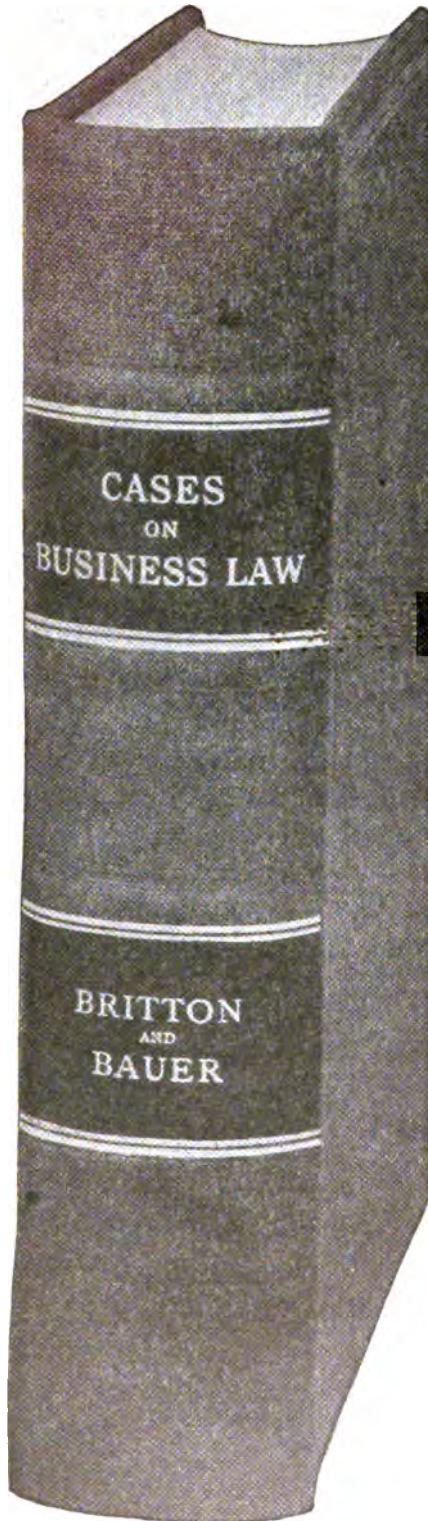
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Cases on Business Law

WILLIAM E. BRITTON

Professor of Law at University of Indiana
and

RALPH S. BAUER

Assistant Professor of Business Law in the College
of Commerce, University of Illinois.

This casebook, which was published last summer, has already been adopted for use in the Schools of Commerce of about twenty Universities and it is also in use in a number of Schools of Accounting.

Britton and Bauer's Casebook on Business Law has been designed for the use of students in the colleges of commerce and the schools of business administration of the universities. The casebook contains over sixteen hundred pages and planned for a course of three hours a week for two semesters, this being the average length of the college courses on business law. The material is concerned chiefly with the law of contracts in its general and special aspects and with the law relating to business associations.

The price has been fixed at a very low figure for a book of this size, namely \$5.00. The binding is buckram.

Approximately 460 pages have been devoted to the general law of Contracts, 150 pages to Agency, 340 pages to Negotiable Instruments, 275 pages to Sales, 160 pages to Partnership, and 140 pages to Corporations. There has been included also a very brief treatment of some aspects of the Pledge, the Bailment, the contracts of Affreightment, Insurance, and Suretyship and some leading cases of the law of Damages and legal remedies, including a short summary of the Bankruptcy Act. A brief statement introductory to the study of law and a list of definitions of legal terms have been added.

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THE AMERICAN LAW SCHOOL REVIEW

AN INTERCOLLEGIATE LAW JOURNAL

S. E. TURNER, Editor

Vol. 5

PUBLISHED BY THE
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No. 1

THE American Law School Review began its existence in 1902, as a magazine for law school students and law teachers, and it has been distributed to students in law schools regularly since that time. An examination of the numbers published during the twenty years of life of the magazine indicates a gradual change in its content, until during the last few years the Review has been edited more in the interests of the law school professor than of the law student. We have decided, therefore, to complete this metamorphosis and beginning with this issue of the American Law School Review (No. 1, vol. V), the magazine will be edited exclusively in the interests of the law teacher and the circulation to law students will cease. Hereafter, we will mail our Docket to students of law, the Review being sent only to such students as request it. The American Law School Review will be sent to teachers of law, the members of the Board of Bar Examiners and others who may be interested.

This change in the plan of the Review makes it possible to devote the pages of the magazine henceforth entirely to those interested in legal education. As in the past, full reports of meetings on the subject of legal education and notes of the various law schools will be published, as well as other statistics regarding law schools not elsewhere available. It is planned to include, as formerly, articles by law school teachers and others, on subjects which will be of special interest to persons interested in legal education.

EDITOR.

(1)

Possible and Needed Reforms in Administration of Justice in Federal Courts

By Hon. WILLIAM HOWARD TAFT
Chief Justice of the United States

[Address delivered at the annual meeting of the American Bar Association at San Francisco, Cal., Aug. 10, 1922.]

I hope you feel in a proper state of mind this morning, in view of the roof under which you are gathered. I do not know any reason why the distinction was made by which Lord Shaw of Dunfermline should speak in a place where athletic contests had theretofore been had, and I should be assigned to this sacred structure. It was doubtless because they knew that Lord Shaw could be trusted anywhere. I am sorry that we have not had the benefit of this fine church auditorium for all the sessions. I feel in speaking here as if I were enjoying an undue privilege, as if it were denying to others the equal protection of the law, not to give them the same opportunity. However, I shall need your prayers and all your self-restraint to keep your attention to what I have to present to you this morning, because it is going to be dry to the point of satisfying the Anti-Saloon League.

For many years, the disposition of business in the federal courts of first instance was prompt and satisfactory. This was because the business there was limited, and the force of judges sufficient to dispose of it; but of recent years the business has grown because of the tendency of Congress toward wider legislative regulation of matters plainly within the federal power which it had not been thought wise theretofore, to subject to federal control. More than that, the general business of the country, and the consequent litigation growing out of it has increased, so that even in fields always occupied by the federal courts, the judicial force has proved inadequate. In

this situation, the war came on, statutes were multiplied, and gave a special stimulus to federal business. Since the war, there has been a great increase of crimes of all kinds throughout the country. This within the federal jurisdiction has included depredations on interstate commerce, and schemes to defraud in which are used facilities furnished by the general government.

Then under the inspiration of the war traffic in intoxicating liquors was forbidden, and under the same inspiration the Eighteenth Amendment was passed and the Volstead Law was put upon the statute book. Prosecutions under this law alone have added to the business in the federal courts certainly 10 per cent.; while cases growing out of the income and other war taxation, out of war contracts and claims against the government, have made discouraging arrears in many congested centers. The criminal business has usually been first attacked, and the effort to dispose of it has in some jurisdictions nearly stopped the work on the civil side.

The Attorney General, properly as it seems to me, conceived that the first step to take was the creation of new judgeships. A bill was introduced in both houses for the addition of eighteen District Judges to the judicial force, two for each circuit, who were not to be assigned to any district, but were to be subject to call to any district in the circuit in which they were appointed, to assist the existing District Judges. In addition, these judges and the existing District Judges were made subject to assign-

ment from one circuit to another where the business required it. The suggestion of a flying squadron of judges, however, did not meet with approval in the House of Representatives, and the Judiciary Committee of that body preferred to add local District Judges for the districts where the congestion was most apparent.

Accordingly a bill was put through which made new judges in twenty-one districts. The bill when it reached the Senate was modified somewhat. It went to conference, and a bill which provides for twenty-four new District Judges and one Circuit Judge in the Fourth Circuit has been reported to both houses. It is opposed, and will doubtless lead to discussion; but, in view of the previous votes in the two houses, it seems likely that the bill will pass before the close of this Congress.

The bill contains a very important provision, which it seems to me will make for expedition and efficiency. While the districts which receive new judges are those in which additions to the judicial force are most needed, there are arrears in other districts and the delays and defeats of justice are not confined to the normal jurisdiction of the twenty-four new judges. The new bill authorizes a judicial council of ten judges, consisting of the Chief Justice and the senior Circuit Judge of each circuit, which is to meet in Washington the last Monday in September, to consider reports from each District Judge with a description of the character of the arrears, and a recommendation as to the extra judicial force needed in his district. The conference thus called is to consider at large plans for the ensuing year by which the District Judges available for assignment may be best used. The senior Circuit Judge of each circuit is given authority to assign any District Judge of one district to any other in his circuit, while the Chief Justice is given authority to assign any District Judge in one circuit to a district in any other circuit, upon request of the senior Circuit Judge of the circuit to which the District Judge is to be assigned, and the consent of the senior Circuit Judge of the circuit from which he is to be taken.

These provisions allow team work. They throw upon the council of judges the responsibility of making the judicial force do a work which is distributed unevenly throughout the entire country. It ends the absurd condition, which has heretofore prevailed, under which each District Judge has had to paddle his own canoe and has done as much business as he thought proper. Thus one judge has broken himself down in attempting to get through an impossible docket, and another has let the arrears grow in a calm, philosophical contemplation of them as an inevitable necessity that need not cause him to lie awake nights. It may take some time to get this new machinery into working operation, but I feel confident that the change will vindicate itself. The application of the same executive principle to the disposition of legal business in the municipal courts of certain cities, and in the courts of some states, has worked well. Although the whole United States is a more difficult field in which to apply it, there would seem to be no reason why its more ambitious application should not prove useful.

A good many objections, I may state informally, have been made to this feature of the bill. It is thought that it gives too much power to the council of judges, and especially to the Chief Justice. Gentlemen have suggested that I would send dry judges to wet territory and wet judges to dry territory, oblivious of the fact that the Chief Justice has not the means of assigning them to any particular work in any district to which he may assign them, and that assignment to cases must necessarily be made by the local District Judge who is in charge, and oblivious of the fact also that it is only by the consent of the two Circuit Judges that he can act. It nevertheless did serve to call out in the discussion references to Jeffreys, and other notorious judges in the history of our profession, which did not seem to be altogether complimentary to those to whom the references were applied.

Second. I come to the appellate business in the federal system. In the old days when business was light in all the federal courts, the appeals and writs of

error that were taken to the Supreme Court were not sufficiently numerous to occupy the full time of the Supreme Court and the Justices were able to do a large amount of circuit work. Indeed, under the statute, until recent years, a Circuit Justice was required to visit each district in the circuit to which he was assigned, once in two years. As the appellate business grew, however, this rule became more honored in the breach than in the observance, and it has now been properly repealed. Its existence, however, showed that there was a time when its obligation was not unreasonable.

It has had one effect, good or otherwise, as you may be affected by it, that it justified the adjournment of the Supreme Court early in the spring, in order that the Justices might do their circuit work. And if they didn't have any circuit work, the logical result was that it enlarged their summer vacation. Now we have been gradually creeping up on that vacation, so that ultimately it may come within reasonable limits.

In 1891 a new intermediate court was created, the Circuit Court of Appeals, one to each circuit, and the Circuit Judges were ultimately increased, so as to give three or more Circuit Judges for each Circuit Court of Appeals, except that of the Fourth Circuit, where there are only two. The new bill proposes to give that circuit an additional judge. In the act of 1891 appeals were allowed from the courts of first instance to the Circuit Court of Appeals, and, speaking generally, the judgments of the new court in cases depending on diverse citizenship, patent cases, admiralty cases, and criminal cases were made final. This radical change became necessary because of the arrears in the Supreme Court, which put the court three years behind the disposition of its cases. The new system worked a great reform, and the court was able to catch up and keep up with its business until within recent years. Now there is an interval of fifteen months between the filing of a case in the court and its hearing. To be exact, I had the clerk give me the time taken between the filing of the transcript and the hearing of the last ten cases on the regular docket heard in

the Supreme Court, and the average interval was fourteen months and sixteen days. This is due not alone to the number of cases filed, but also to the fact that, with the increasing number of cases in which emergent public interest demands that a speedy disposition be had, many cases are taken out of their order and are advanced. Much of the time of the court is consumed in the hearing of such cases and the regular docket is delayed.

The members of the Supreme Court have become so anxious to avoid another congestion like that of the decade before 1891 that they have deemed it proper themselves to prepare a new bill amending the jurisdiction of the Supreme Court and to urge its passage. A committee was appointed some two years ago of the court, and this year they gave great attention to it. The committee was composed of Mr. Justice Day, Mr. Justice McReynolds, and Mr. Justice Vandeventer, while the Chief Justice was an ex officio member. The bill is now pending in both houses of Congress. The act of 1891 introduced into the appellate system a discretionary jurisdiction of the Supreme Court over certain classes of appeals. It proceeded on the theory that, so far as the litigants were concerned, their rights were sufficiently protected by having one trial in a court of first instance, and one appeal to a court of appeal, and that an appeal to the Supreme Court of the United States should only be allowed in cases whose consideration would be in the public interest. Accordingly, under existing law, appeals in diverse citizenship cases, in patent cases, in bankruptcy cases, in admiralty cases, and in criminal cases can now reach the Supreme Court for review only when that court shall, after consideration of the briefs and record, deem it in the public interest to grant the writ of certiorari. By the act of 1916, this discretionary power of the court was extended and its obligatory jurisdiction reduced, as to review of the state court judgments, so that now the only questions which can come by writ of error from a state court to the Supreme Court as a matter of right are those in which the validity of a state statute or authority or of a federal stat-

ute or authority under the Constitution has been the subject of consideration by the state court, and has been sustained in the former or denied in the latter case. All constitutional questions arising in the federal courts, in the District Courts or the Circuit Court of Appeals, subject to review at all, may under existing law be brought to the Supreme Court as of right. Thus there is a distinction between writs of review from the state courts and review of the subordinate federal courts.

The new bill increases the discretionary appellate jurisdiction now vested in the Supreme Court so that no case of any kind can be taken from the Circuit Court of Appeals to the Supreme Court of the United States without application for a certiorari. Obligatory appeals from all other courts subordinate to the Supreme Court of the United States, except from the federal District Courts in a limited class of cases and from the state courts, are also abolished and only review by certiorari is provided. This includes the Court of Appeals of the District of Columbia and the Court of Claims, as well as the territorial courts. Direct appeals from the District Courts to the Supreme Court in jurisdictional and constitutional questions are abolished and such questions are to reach the Supreme Court only through the Circuit Court of Appeals. These changes it is thought will give the Supreme Court such control over the business as that it can catch up with its docket.

The objection urged to the bill is that it gives the Supreme Court too wide discretionary power in respect to granting appeals and that a thorough examination of the cases on the applications for certiorari is impossible. The bill has been recommended by the members of the court only after a very full consideration of the subject. They are convinced that it is the best and safest method of avoiding arrears on their docket. It does not need an extended and close argument upon the merits of a question to enable the court to decide whether it is important enough in a public sense to justify its consideration. It is not necessary upon such an application for the court to de-

cide the issues which were considered below. That is not what the certiorari should turn on. The court can quickly acquire knowledge of the nature of the questions in the case from the briefs filed. To allow an oral argument on such applications would be largely to defeat the object of the new bill. Every brief presented is carefully examined by each member of the court and every case is discussed and voted on. I want to emphasize that, because I am a witness.

The class of cases most pressed upon the court for the writ of certiorari is not that of the cases that involve serious constitutional questions or questions of public importance. The motive of the litigants generally is merely to get another chance to have questions of importance to them, but not of importance to the public, passed upon by another court. The present discretionary power of the Supreme Court in allowing appeals in certain cases coming from state Supreme Courts and involving federal constitutional questions is very little enlarged by the new bill. The change in the new bill on this point was made rather to clarify the meaning of the existing law than to enlarge the court's discretion, and if objected to may well be stricken out.

The general power of certiorari in such constitutional questions was conferred in the act of 1916, and has been exercised ever since. It was granted because Congress found that counsel were often astute in framing pleadings in state courts to create an unsubstantial issue of federal constitutional law and so obtain an unwarranted writ of error to the Supreme Court. It was, therefore, thought wise not to permit a writ of error as of right in any cases except in those in which the plaintiff in error could show that a state court had held a state statute valid which was said to be in violation of the federal Constitution, or a federal statute invalid for the same reason, and to require in all other cases of alleged violation of federal constitutional limitations that the Supreme Court should be given a preliminary opportunity on summary hearing to say whether the claim made presented a real question of doubtful constitutional law, or was, on its face,

unworthy of serious consideration in view of settled principles. It was thought that a court, very familiar with such questions by constant application of them, could in a summary hearing separate wheat from the chaff and promptly end litigation, the continuance of which must do great injustice to the successful party below, and, what is more important, clog the docket and delay the hearing of meritorious causes.

As already said, the new bill extends the certiorari jurisdiction of the Supreme Court to constitutional questions which are decided by the federal Circuit Courts of Appeal. There really is not any reason why a distinction should be made between the state Supreme Courts in this regard and the Circuit Court of Appeals. If in two federal courts whose reason for being is to protect the rights of individuals against local prejudice in state courts, or against infraction of their federal constitutional rights, a complainant is defeated, surely it is not conferring undue power upon the Supreme Court, whose members are engaged daily and for years in the consideration of such questions and their final adjudication, to provide a preliminary investigation into their seriousness and importance before burdening that court and its docket with a lengthy and formal hearing. The public and other litigants have rights in respect of frivolous and unnecessary consumption of the time of the Supreme Court which the use of the writ of certiorari seems to be the only practical method of preserving.

Too many appeals impose an unfair burden on the poor litigant. Gentlemen, speed and dispatch in business are essential to do justice. Various methods have been adopted to limit appeals to courts of last resort. One is by imposing heavy costs. But that puts the privilege within the reach of the longer purse. Again, classification, by subject-matter has been attempted, but this has not prevented clogging the docket with cases presenting no question of general interest or difficulty. In California, in Ohio, in Illinois and in other states, the Legislature has extended to the state Supreme Court a discretion after preliminary and sum-

mary examination, to grant or deny appeals.

The failure of the Supreme Court to lay down definite rules for determining the cases in which certiorari should be granted has called for adverse comment. This is unjust. Certain general rules have been laid down. The writ is used to secure uniformity of decision in subordinate courts of appeal and to decide questions of general public importance which are not well settled. It is said that this is vague. But the very postulate upon which the discretion is granted is that definite rules for determining the appealable cases have not proved satisfactory, and that it is better to let the Supreme Court distinguish between questions of real public importance and those whose decision is only important to the litigants.

The members of the court have recommended the new bill to Congress because they believe it to be the most effective way of speeding the disposition of causes before it and therefore speeding justice. The gain which the arrears have made upon the court during this last year down to July 29 is represented by seventy cases, or 20 per cent. of the whole number in arrear, and while the court will make an effort to reduce the arrears, the prospect is, in view of the great additions to business in the subordinate courts, that the court will fall further and further behind.

I may speak of a secondary reason why this bill should pass. The statutes defining the jurisdiction of the Supreme Court and of the Circuit Courts of Appeal are not as clear as they should be. It is necessary to consult a number of them in order to find exactly what the law is, and I regret to say that without clarification by a revision, the law as to the jurisdiction of the Supreme Court, and of the Circuit Courts of Appeals, is more or less a trap, in which counsel are sometimes caught. This bill removes all technical penalties for mistaken appellate remedies.

Of course, amendments could be made which would easily cut down the work of the Supreme Court, if Congress wishes to adopt a different function for the

federal courts from that which they now have. If it chooses to abolish the inferior federal courts or to take away their jurisdiction in diverse citizenship cases and in cases involving a federal question, as has been suggested by some, it would relieve business congestion in them and in the Supreme Court. The theory is advanced that a citizen of one state now encounters no prejudice in the trial of cases in the state courts of another state, and that the constitutional ground for the diverse citizenship of federal courts has ceased to operate. If the time has come to cut down the subject-matter of federal judicial jurisdiction, it simplifies much the question of the burden of work in the federal courts, but that has not been the tendency of late years. I venture to think that there may be a strong dissent from the view that danger of local prejudice in state courts against nonresidents is at an end. Litigants from the eastern part of the country who are expected to invest their capital in the West or South will hardly concede the proposition that their interests as creditors will be as sure of impartial judicial consideration in a Western or Southern state court as in a federal court.

The material question is not so much whether the justice administered is actually impartial and fair, as it is whether it is thought to be so by those who are considering the wisdom of investing their capital in states where that capital is needed for the promotion of enterprises and industrial and commercial progress. No single element—and I want to emphasize this because I don't think it is always thought of—no single element in our governmental system has done so much to secure capital for the legitimate development of enterprises throughout the West and South as the existence of federal courts there, with a jurisdiction to hear diverse citizenship cases. But of course the taking away of fundamental jurisdiction from the federal courts is within the power of Congress, and it is not for me to discuss such a legislative policy. My suggestions are intended to meet the situation as it is, and to secure some method by which civil litigation under existing law may be promptly and

justly dispatched. The trial of criminal cases in the federal courts is not within the scope of this paper.

A perfectly possible and important improvement in the practice in the federal courts ought to have been made long ago. It is the abolition of two separate courts, one of equity and one of law, in the consideration of civil cases. It has been preserved in the federal court, doubtless out of respect for the phrase "cases in law and equity" used in the description of the judicial power granted to the federal government in the Constitution of the United States. Many state courts years ago abolished the distinction and properly brought all litigation in their courts into one form of civil action. No right of a litigant to a trial by jury on any issue upon which he was entitled to the right of trial by jury at common law need be abolished by the change. This is shown by the everyday practice in any state court that has a Code of Civil Procedure. The same thing is true with reference to the many forms of equitable relief which were introduced by the Chancellor to avoid the inelasticity, the rigidity, inadequacy and injustice of common-law rules and remedies. The intervention of a proceeding in equity to stay proceedings at common law and transfer the issues of a case to a hearing before the chancellor was effective to prevent a jury trial at common law long before our Constitution, and would not be any more so under a procedure in which the two systems of courts were abolished. Already under the federal Code, there is a statutory provision which has not yet been much considered by the courts, by which an equitable defense may be pleaded to a suit at law. If we may go so far, it is a little difficult to see why the distinction between the two courts may not be wholly abolished, and the constitutional right of trial by jury retained unaffected.

If the separation of equity and law for the purpose of administration is to be abolished in the federal system, and they are to be worked out together in the same tribunal, then a new procedure must be adopted. Who shall frame it? Shall Congress do it or merely authorize

it to be done by rules of court? Congress from the beginning of the government has committed to the Supreme Court the duty and power to make the rules in equity, the rules in admiralty, and the rules in bankruptcy. Moreover, this American Bar Association has for some years been pressing upon Congress the delegation of power to the Supreme Court to regulate by rule the procedure in suits at law. There would seem to be no reason why, where the more difficult work of uniting legal and equitable remedies in one procedure is to be done, the Supreme Court, or at least a committee of federal judges, should not be authorized and directed to do it. Of course, the present statutes governing a separate administration of law and equity must be amended or revised by Congress and certain general requirements be declared, but the main task of reconciling the two forms of procedure can be best affected by rules of court.

The same problem arose in the courts of England and has been most successfully solved. By the Judicature Act of 1873, Parliament vested in one tribunal, the Supreme Court of Judicature, the administration of law and equity in every cause coming before it. This court was made up of the Court of Appeal and of the High Court of Justice. By subsequent acts the divisions of the High Court were reduced to three: (1) The King's Bench; (2) Equity; and (3) Probate, Divorce and Admiralty, as they now are. They are all merely parts of the same High Court, but for convenience the suits are brought in those divisions respectively corresponding to the remedies sought. If it happens that what would have been equitable relief is sought in the King's Bench, it may be granted there; but it is more likely to be assigned to the Equity Division, and vice versa. Judges familiar with the equity practice are appointed to the Equity Division, and those familiar with the law side of the practice are sent to the King's Bench.

Then there has grown up a separate branch of the High Court in which only commercial cases are heard, and to that court judges familiar with the law mer-

chant and commercial contracts and customs are assigned and the cases are heard and decided with remarkable dispatch. They are, perhaps, agreed cases, but they are submitted and disposed of, most important cases, within 40 days. There is the same division of the practice among the barristers under the influence of the older separation of law and equity administration. The courts of the High Court are, however, now all one court, with full power to give any kind of relief the nature of the case requires. Parliament gave to a committee of the judges and representatives of the barristers and solicitors, power to recommend rules of practice for this new system. The present procedure is the result of rules adopted in 1883, amended from time to time by the same authority, as the experience with the existing rules showed the necessity. The rules and amendments are reported to Parliament for its rejection or amendment, but until that is forthcoming they control the procedure.

It was my good fortune during three weeks of this summer to be able to attend the hearings of all the various branches of the courts of England. I have heard it questioned whether, in view of the report that was given in this country as to my activities in London that were not exactly judicial or professional, it was possible for me to absorb any knowledge with reference to the practice in the English courts. I think Lord Shaw has lent a little support to that view by certain remarks that I have heard him make. I am not disposed to say that in an ordinary case such evidence would not be convincing. But to men who have attended the meetings of the American Bar Association, and know what a single individual of digestive experience can do in the matter of functions for a week, a great deal will seem possible in three weeks.

I may stop to say that I am deeply grateful for the reception which was given me as Chief Justice by the Bench and the Bar of England, and for the truly brotherly spirit which they manifested. Of course, one cannot separate himself from the personal in such a manifesta-

tion. He knows it is not really personal, but representative; but he thanks God that he happens to be the personal representative to receive it. They opened their arms. Everything that they could do they did. It showed to me, what I have always thought to be the case, that one of the strongest bonds between this country and Britain is the bond between professional men of the law and the judges who have to do with the administration of justice in both countries.

In connection with this general subject, the treasurer of the Association, Mr. Wadhams, has asked me to read a letter, which I am sure you will be glad to hear:

The Royal Courts of Justice.

London, July 21, 1922.

At the suggestion of Viscount Cave, who enjoyed the privilege of the hospitality of the American Bar Association the year before last, and with the approval of the Lord Chancellor, I am writing to you, tentatively, to ascertain whether I might send you a formal invitation to the American Bar Association to hold their annual meeting in 1924 in London. It will be a great honor and pleasure to the Bar of England if this could be arranged.

There are a number of matters, such as the time, the places of meeting, and facilities which would have to be considered, as well as minor details, but if you were to let me know that the invitation would be acceptable to the American Bar Association, it would be a pleasure to me to send you a formal invitation upon hearing from you.

Perhaps at the same time you would let me know the number who would be likely to come and the time during which the meetings would last. These matters, however, I leave for further consideration, and ask you to let me know as a preliminary whether my suggestion is one that the American Bar Association would entertain.

I feel sure that there are many of the Bench and Bar here who would be glad to join in offering a welcome to your Association, and who hope, as I do, that the plan may be found possible.

Yours very truly, Ernest M. Pollock.

Sir Ernest Pollock is the Attorney General of England.

With respect to that suggestion, I may say that I was in attendance at the so-called Grand Night, at Gray's Inn, in London. The Lord Chancellor was there, so also were the President of the Probate, Divorce and Admiralty Division, Sir Henry Dukes, Mr. Justice Dar-

ling, Sir John Simon, and a number of others. The question of such a visit was discussed. They were all strongly in favor of it. And I can assure you that, if the Association deems it wise to accept this for the year 1924, those who go will never regret it or forget it. The Lord Chancellor, Viscount Birkenhead, I have been pressing to come to this country and attend the meeting of the American Bar Association next year. I am not sure how his engagements will be, but that he will be glad to come, if he can come, I know. Certainly the American Bar Association would be delighted to receive him, not only as the highest judicial officer of Great Britain, but as a man of the greatest ability and the greatest charm, and a man that you would be pleased to take into your bosom as a fellow judge and fellow member of the Bar.

Now, having proved to you that I gave sufficient attention to the practice in the Royal Courts, I am going to give you my conclusions. I had looked into the description of the procedure which at present obtains in those courts as described in a very useful book prepared by Mr. Samuel Rosenbaum, of the Philadelphia Bar, entitled, "The Rule-Making Authority in the English Supreme Court," and I was permitted to be present and note the practical operation of the rules. The history of their adoption is set out in great detail by Mr. Rosenbaum, and I shall not detain you with an attempt at even a résumé of the growth of the system and the remarkable character of the reform which was effected through the rules in the administration of English justice. Nor am I competent to do so with accuracy of detail. I can only essay a most general description.

If one will read the contrast between the dreadful inadequacy of English Courts and the administration of English justice in 1837, when Victoria ascended the throne, and their efficiency and admirable work in 1887, when she celebrated her golden jubilee, as described by Lord Bowen, one of the great English judges, in his jubilee essay on the Administration of Law, he may well take courage as to what may be done with our

system in the way of bettering it. Describing the result of the change of procedure by Rules of Court, Lord Bowen used these words:

A complete body of rules—which possess the great merit of elasticity, and which (subject to the veto of Parliament) is altered from time to time by the judges to meet defects as they appear—governs the procedure of the Supreme Court and all its branches. In every cause, whatever its character, every possible relief can be given with or without pleadings, with or without a formal trial, with or without discovery of documents and interrogatories, as the nature of the case prescribes—upon oral evidence or affidavits, as is most convenient. Every amendment can be made at all times and all stages in any record, pleading or proceeding, that is requisite for the purpose of deciding the real matter in controversy. It may be asserted without fear of contradiction that it is not possible in the year 1887 for an honest litigant in Her Majesty's Supreme Court to be defeated by any mere technicality, any slip, any mistaken step in his litigation. The expenses of the law are still too heavy, and have not diminished *passu* with other abuses. But law has ceased to be a scientific game that may be won or lost by playing some particular move.

The justness of this summary is thus upheld by that great jurist, Mr. Dicey:

Any critic who dispassionately weighs these sentences, notes their full meaning, and remembers that they are even more true in 1905 than in 1887, will partially understand the immensity of the achievement performed by Bentham and his school in the amendment of procedure—that is, in giving reality to the legal rights of individuals.

The means by which this reform was accomplished and the avowed object of the framers of the rules was to effect "a change in procedure which would enable the court at an early stage of the litigation to obtain control over the suit and exercise a close supervision over the proceedings in the action." Thus could dilatory steps be eliminated, unnecessary discovery prevented, needed discovery promptly had, and the decks quickly cleared for the real nub of the case to be tried. It was first proposed to discard pleadings, but this was abandoned. Suit is begun by service of a writ of summons. Shortly after the appearance of the defendant, a summons for directions is

issued to him, at the instance of the plaintiff, requiring him to appear before a master or judge to settle the future proceedings in the cause.

In the King's Bench this work is done by masters. In equity and commercial cases, it is usually done by the judge to whom the case is assigned. The master or judge makes an order as to the manner in which the case shall be carried on and tried. In cases in which the original writ is indorsed with notice that the claim is for a fixed sum as upon a contract, a sale of goods, a note or otherwise, and the plaintiff files an affidavit that there is no defense, the master may under rule 14, require the defendant to file an affidavit showing that he has a good defense and specifying it before he may file answer. If he files no such affidavit, summary judgment goes against him. In other cases, the master or judge makes an order, fixing time for pleadings and kind of trial, and no step is thereafter taken without application to the master or judge, so that the latter supervises all discovery sought, decides what is proper, and requires the parties "to lay their cards face up upon the table" and the real issue of fact and law is promptly made ready for the trial.

I sat with Sir Willes Chitty, the learned and most effective Head Master of the King's Bench, and saw the solicitors, and sometimes the barristers, come before him to shape up the issues, the pleadings and the directions for trial. He knocked the heads of the parties together so that a clear issue between them was quickly reached.

Demurrers are abolished. An objection in point of law may be made either before, at or after the trial of the facts. Particulars in pleading may be had by a mere letter of inquiry from the solicitor of one party to the other, and any refusal is at once submitted to the master or judge. Should either party object to the orders of a master, the question can be at once referred to the judge who is to try the cause and passed on. The pleadings are very simple. They are a statement of claim and an answer. Great freedom is allowed as to joinder of actions and parties and in respect to set-offs

and counterclaims. The pleadings are prepared on printed forms for use according to the rules, with details written into the paragraphs. The nature of the claim is stated in a very brief way. A blank paragraph is left in the form for particulars as to the main facts and for references to documents relied on. The main facts and the documents upon which each side relies to establish its case or defense are thus brought out before trial, and all in a very short time. Admissions of important facts are elicited by each side from the other to save formal proof and its expense, on penalty of costs for refusal if the fact proves to be uncontested.

The effect of the administration of justice under these rules can be shown in some degree by reference to the judicial statistics of England and Wales for 1919 in the disposition of cases in the High Court of Justice, King's Bench Division. The summonses issued in the King's Bench Division in a year amounted to 43,140. In 14,244 cases, judgments were entered for the plaintiff. In 386 cases, judgments were entered for the defendant. In 526 cases other judgments were entered than either for the plaintiff or the defendant, making a total of 15,136 judgments entered in the suits brought. This would leave undisposed of about 28,000 writs of summons issued. This sum represents the suits brought, which were abandoned or which resulted in satisfaction of the claim without further proceeding beyond the issuing of the summons. Of the judgments rendered, over 9,000 were entered in default of appearance of the defendant; 756 by default other than in default of appearance; 2,684 judgments were entered as summary judgments under order 14, because the defendant would not make the necessary affidavit to justify his securing leave to answer. One hundred and forty-one judgments were rendered after trial with a jury. Eight hundred and thirty-six judgments were rendered after trial without a jury. Thirty-five were rendered on the report of the official referee. Of the judgments for defendants, 55 were rendered after trial with a jury, and 309 after trial without a jury. This shows

how thoroughly the preliminary steps to the preparing of the issue winnow out the cases and dispose of them without further clogging of the docket.

The speed with which this system disposes of the business was testified to by the New York State Law's Delays Commission twenty years ago. It reported to the Governor of that state in 1903 that 23 judges of the High Court of Judicature in England actually tried twice the number of cases in a year that 41 judges in New York City tried in the same time, and that the difference was due to the operation of summons for directions and the summons for summary judgment. The report was approved by the Association of the Bar of the City of New York, Judge Dillon then being chairman of the Judiciary Committee of that body. It was sought to introduce this reform for New York City by act of the Legislature providing for fifteen masters, but it is said to have been beaten by the influence of those who did not wish to abolish the referee patronage in the New York courts.

The English system is adapted to the conditions prevailing in that country and has been built up on the traditions of the Bench and Bar, which do not have the same force here. Moreover, it is much more applicable to the disposition of the litigation of a great city like New York, Chicago, or Philadelphia, as the New York Commission found it to be, than to our federal courts of first instance. In the first place, the territorial jurisdiction in England is a compact one, embracing only England and Wales, and in which there are nearly 500 county courts, disposing, under the simplest procedure, of much of the business involving less than £100 in law cases and £500 in equity cases. The branches of the High Court of Judicature to which these rules of procedure apply are centered in London, the judges live there, and while the assizes are held at various towns in England and in Wales, access to London is easy, and the natural result is that the important cases are generally either brought in London or ultimately reach there for their disposition.

The division of the profession into bar-

risters and solicitors, and the small number of the active members of the Bar, as compared with our own, make it easy to form an atmosphere of accommodation on the part of counsel toward the court and toward one another, which could hardly exist in the administration of justice in a federal court covering all or half a state, and involving litigation in which the counsel who appear are engaged in that court in only a small part of their practice. The English barristers only know their clients through the briefs of the cases which are handed them to enable them to conduct the cause in court. They present the case in an impersonal way. Their fees are fixed in advance and are not contingent. These circumstances render much less common efforts at delay and the use of legal procedure to prevent the prompt rendition of justice. More than this, the system of costs in the English courts, in which the defeated party is made to pay the expenses of the other side, including solicitors' and reasonable barristers' compensation, restrains counsel by the fear of penalties always imposed for useless proceedings.

The costs in English courts would seem to be too heavy. Lord Bowen speaks of that as a needed reform. I am sure that we never could be induced to adopt the division of the profession into barristers and solicitors, or the English system of costs. But these differences should not prevent our using a great deal of what has proved effective in the English practice to simplify procedure and speed justice in our federal courts. The English precedent certainly demonstrates the advantage of having the procedure by rules of court, framed by those most familiar with the actual practice and its operation and most acute to eliminate its abuses and defects.

What I would suggest is that Congress provide for a commission, to be appointed by the President, of two Supreme Court Justices, two Circuit Judges, two District Judges, and three lawyers of prominence and capacity to prepare and recommend to Congress amendments to the present statutes of practice and the judicial code, authorizing a unit administration of law and equity in one

form of civil action. The act should provide for a permanent commission similarly created, with power to prepare a system of rules of procedure for adoption by the Supreme Court. Power to amend from time to time should also be given. The rules and their amendments, after approval by the court, should be submitted to Congress for its action, but should become effective in six months, if Congress takes no action. In this way the procedure would be framed by those most familiar with it and by those whose duty it is to enforce it. The advantage of experiment in the laboratory of the courts would furnish valuable suggestions for bettering the system. The important feature of such a system is that needed action by the commission and the court will be promptly taken and the necessary delay in a Congress crowded with business may be avoided.

The reforms that I have been advocating involve some increase in the power of the judges of the courts, either in the matter of the assignment of judges, in the matter of the enlargement of the certiorari power or in the adoption of more comprehensive rules of procedure. I am well aware that they will be opposed solely on this ground, and that the objection is likely to win support because of this. It is said that judges are prone to amplify their powers; that this is human nature, and therefore the conclusion is that their powers ought not to be amplified, however much good this may accomplish in the end. The answer to this is that if the power is abused, it is completely within the discretion—indeed, within the duty—of the Legislature to take it away or modify it.

Dependence upon action of Congress to effect reform to remove delays and to bring about speed in the administration of justice has not brought the best results, and some different mode should be tried. The failures of justice in this country, especially in the state courts, have been more largely due to the withholding of power from judges over proceedings before them than to any other cause, and yet judges have to bear the brunt of the criticism which is so general as to the results of present court

action. The judges should be given the power commensurate with their responsibility. Their capacity to reform matters should be tried to see whether better results may not be attained. Federal judges doubtless have their faults, but they

are not chiefly responsible for the present defects in the administration of justice in the federal courts. Let Congress give them an opportunity to show what can be done by vesting in them sufficient discretion for the purpose.

Preliminary Education for Lawyers

By *Dr. NICHOLAS MURRAY BUTLER*
Of New York

[Address delivered at the annual meeting of the American Bar Association at San Francisco, Cal., Aug. 11, 1922.]

MR. CHAIRMAN, Ladies and Gentlemen: Into this notable gathering of jurists and jurisconsults and practitioners of the law I may only presume to come as the spokesman for the inconspicuous and often humble client. In these days of the economic interpretation of history, the client may perhaps be said to be the economic basis upon which courts and judicial systems and the practice of the law rest. I am, therefore, in accord with the spirit of the times in speaking for a few moments from the viewpoint of the layman.

Lord Melbourne, who won the high distinction of lifting common sense to the plane of philosophy, once said: "It is tiresome to educate; it is tiresome to discuss education; it is tiresome to be educated." And, without venturing to contradict so eminent an authority, I shall endeavor to combat the necessary tedium of this discussion with the soul of wit, which is brevity.

All civilized peoples throw protection about their public service, and all civilized peoples fix increasingly severe standards of admission to permanent public service. I presume that, in an earlier and an older day, any college or any profession or any practice, save that, perhaps, of the priesthood, was open to any one whose spirit might turn him in that particular direction. But one calling and one profession after another has been singled out as one needing organization,

protection, and studious and careful preparation. And long ago the three learned professions were developed. Their number has now been increased by that of the engineer, by that of the architect, by that of the teacher, and it is now being added to by that of the journalist, by that of the pharmacist, and various others—the members of various other organized professions.

The three learned professions became such because it was apparent that their practice was not a matter of mere haphazard, not a matter of mere empirical examination of a new and distinct state of facts, but that the practice rested upon a body of tested and organized knowledge, which had become a part of human experiences, and was on its way to be developed into a science. When our organized human knowledge gets to the point that we are enabled to predict with reasonable accuracy, we have the elements of a scientific comprehension of a given field of knowledge.

I think there are few more interesting things in the history of the intellectual life of men than the development of the medieval universities out of the necessities and out of the aspirations of human society. And, as members of this Association doubtless well know, the great University of Bologna, the pioneer of them all, was originally solely a school of law. Men journeyed there, and women, too, over hundreds of miles of mountains

and plains and rivers, in order to hear Janarius discuss the principles of the Roman Law. The fires that were lighted at Bologna have been burning with increasing brilliance ever since. And to-day the study of the law is one of the most highly organized, one of the most precise, and one of the best ordered of all our intellectual endeavors.

But in a democratic society there are naturally those who raise their voices against so high and so precise a standard for a training as will shut out, and I use the name because I have heard it so fluently in these discussions, Abraham Lincoln. My reflection upon that is that, as we produce Abraham Lincolns, we shall be able to deal with them without public damage.

We have now come to the point, however, where this organized study of the law is not all that is necessary and adequate for the care and the guidance of the litigation of those great, manifold human interests and activities that constitute modern society and the modern state. The economic basis upon which our social order rests has undergone grave and far-reaching changes since the common law took its form, and since the civil law was thrown into code form. The layman sees in a legal decision, a judicial decision, by the highest court of his land, an adjustment of facts. The lawyer sees an application of principles. Those principles are perhaps hidden from the layman. He is concerned with the facts, with what seems to him, from his point of view, selfish, perhaps, to be fair and right and just and orderly. If he find a decision is arrived at on strict and sound legal and judicial principles, which offend that sense, he, often through lack of comprehension of the legal argument, goes in revolt, not against that particular opinion, but against the whole system which gives rise to judicial decisions. That, to the best of my knowledge, is, as briefly as I can put it, the state of mind of the man who is wrestling as to the application of the law to his particular set of interests or contentions.

In my judgment, at that time is to be found the basis for the argument that the student of the law must, in these days,

have a care that he possesses a thorough comprehension of economics, and all those principles of organized society which history and the social sciences exhibit in their evolution and their application. Curiously enough, it is exceedingly difficult to-day to get for the great mass of our student bodies any sound and thorough comprehension of the fundamental principles of economics. That was possible thirty years ago, perhaps less. But that great branch of knowledge has now become so divided up into separate fields, the money problem, the labor problem, the transportation problem, the public utility problem, that economists nowadays are very apt to be specialists, and unable or unwilling to give to the youth of high school or college age that clear, simple exposition of the fundamental principles of economics that is necessary to an understanding of the life that we live, and which has become an essential part of the equipment of the modern member of the bar, who would be apprised of the great body of facts by which we are surrounded, the feelings, the emotions, the ambitions that are moving masses of men.

We speak of waste, physical waste, financial waste. I sometimes wonder whether there is any waste in the world comparable with our intellectual waste; whether there is anything to compare with the amount of ungarnered, uninterpreted, unknown knowledge, that goes over the dam of human life and human experience.

Let me give one illustration: We are living at a time when there is a very strong and almost world-wide revival of faith in some form of communism—both communism as to social relations and communism as to the possession of property. If the modern communist were asked to read Plato's "Republic," and find out about it all, he would be surprised. If he were asked to read Governor Bradford's "History of New York," and to find what happened there, among a people as intelligent and as high-minded and as united in spirit as were ever together, he would wonder why we asked him to give his time to ancient history. But the fact is, Mr. Chairman, that human experience has tried all these things.

Human endeavor has traveled in all of these roads. And if we would avoid unceasing and exhausting intellectual and social waste, it behooves us that our leaders of opinion, those who are so instrumental in formulating our law, those who guide us through their interpretation and decisions best, those who occupy such a place in the development and formation of public opinion—that they should know, not merely guess at, but that they should know, what has been in the world in the way of social and economic experimentation.

Therefore I would have the preliminary education of the lawyer lay the greatest possible stress upon the fundamentals of economics and upon the history of social organization, social endeavor, social success, and social failure. And the material is at hand and abundant.

Next, it goes without saying, does it not, that in order to comprehend, even dimly, the principles of law and the methods of critical thinking and ratiocination—it goes without saying, does it not, that there must be a foundation, an adequate disciplined maturity—a disciplined maturity, and not merely maturity? Men may grow up and grow old, without discipline, and without wisdom. They will be assisted if, during this period of maturing, there is an ordered discipline widely directed toward a definite and specific end.

The schools of medicine and the schools of engineering have now got to the point where they say explicitly what they wish the incoming student to have. You may not be graduated from even the best of American colleges with your bachelor's degree and walk into a school of medicine. The very first thing that they ask you is whether, in getting that degree, you gained a sufficient knowledge of the sciences fundamental to medicine, chemistry, physics, physiology, so as to entitle you to come and profit by your four years of medical instruction. The student of a school of engineering must have, not merely a degree, not merely so many years in college tutorage, but it is specified that you must come with so much mathematics, so much physics, so much mechanics, so much something else,

as will enable you to profit by highly organized professional engineering education. And the time has come, gentlemen, for the schools of law to say that they wish their incoming students to come to them, having pursued, systematically and well, those studies in the field of economics and history and social science that will prepare them to understand the fundamental concepts of the law, their development and their application.

Of course, the moment a student approaches the law, he begins the study of history from a new angle and in a new way. But it will not harm him to have had those larger and fuller and nonlegal views that open the mind, that inform him as to human experience, and that prepare it to give a new meaning to the early stages in the development of the law of contracts and torts and real estate.

Where shall these be had? Many of us have followed with interest your discussions and your reports, and those held and made under your auspices, relative to this great interest. I think, without risk of being misunderstood, I may say that there is nothing sacred about a college education. There are some persons who go to college who would be distinctly improved by being kept away. There are doubtless many others who would gain marked advantage, for themselves and for the society in which they live, if the opportunity were open to them. But, in that connection, you must bear in mind that the word "college" no longer has a definite or a uniform meaning. A college, in the United States, is almost anything which bears that name. If it shall be chartered under the general act of incorporation in the District of Columbia, it quickly may assume the form of a public nuisance.

Now, when you use the word "college," it is important to remember, first, that you are dealing with a term which has been defined by law in but very few states. I recall but two at the moment; there may be others. Next, that you are dealing with an institution which, for twenty-five years, has been going through a very extraordinary series of changes, and which doubtless will continue to go through similar changes for some time to come, since we are living in a period of

development and change. Mere going to college is not sufficient. It ought to indicate disciplined maturity. Perhaps it does. If it does, so far, so good. But the point is: Has that going to college for a longer or a shorter time included a serious and scholarly study of the fundamental pre-legal subjects to which I have been making reference? That is something which will bear looking into.

One other point: I have been told that it is objected, to raising the standard of admission to the legal profession that it would put such admission beyond the reach, for financial reasons, of very many ambitious and mentally well-equipped American youth. I am disposed to doubt it.

There has grown up in this country, and it is rapidly multiplying, an institution known as the Junior College. That Junior College will be found one of these days in pretty much every city in the Union that has fifty thousand or seventy-five thousand inhabitants. It is the result of an evolution that has been going on for forty years, and indicates one of the most striking changes in the organization of American education. Our old-fashioned college took a boy at sixteen or seventeen, kept him until he was twenty or twenty-one, and carried him through a substantially uniform and prescribed course of study. As intellectual interests multiplied, as the program became overcrowded, as the choice of studies was introduced, all that was changed, until finally the number of youths in a given college and in a given year who pursued exactly the same program of instruction was very small indeed.

The consequence is that, in endeavoring to remedy the situation that developed, and which was not very fortunate, because we found we were destroying the common body of knowledge which holds men together, the real argument for prescribed studies to youth of college age is not alone such value as they may have for discipline and information, but it lies in the fact that it is highly important, especially in a self-governing society, that men and women should be united by a common body of knowledge, before their special interests begin to diverge and move apart.

In the endeavor to correct that situation, the prescribed and ordered studies were put into the first two years of the old four-year college course. Then it began to be found that many communities could afford to maintain that type of instruction in connection with their high schools, and the Junior College began to grow up all over the land. There are hundreds of such institutions now; very soon there will be thousands. Their development is certain to follow the development of the high schools themselves, which have multiplied many times in the last forty years, and this kind of instruction, of which I understand you are in search, will be found not alone in the great universities and the endowed colleges in the East, North, South, and West, but it will be found almost at the doorsill of the intending student of the law, in the community where is his home, which can provide enough students year by year to justify the taxpayer in maintaining this type of institution.

So that, in dealing, gentlemen, with the preliminary education of the law student, you are dealing not alone (and this I am especially anxious to make clear) with something which affects the bar and your profession, but you are dealing with a large and a far-reaching public interest; you are dealing with variable quantities; you are dealing with a complicated situation, made so by the student and the variety of our country, its population, its needs, its economic situation. And it must be dealt with, if it is to be dealt with constructively and lastingly, not only in a spirit of understanding, but of sympathy; not only of professional opportunity, but of public service. And when that shall be accomplished, and when the student shall be launched upon the study of the law, as law, with a disciplined maturity, such as I have described, with a body of knowledge in these historical and economic fields, such as I have tried briefly to summarize, you will have carried very far forward the standards of usefulness of your profession, not only as a profession devoted to high ideals and public service, but as a profession which is one of the foundation stones of the social order of any modern, self-governing state.

Proceedings of the Section of Legal Education

Held at San Francisco, California, August 8, 1922

The meeting of the Section of Legal Education of the American Bar Association was held at the Hotel St. Francis, San Francisco, California, commencing at 2:30 p. m., on the 8th day of August, 1922, with the Secretary, John B. Sanborn, presiding.

The Secretary, John B. Sanborn, of Madison, Wis.: The Section of Legal Education is somewhat short of officers this afternoon. Mr. Root, the Chairman, was unfortunately unable to take the trip to San Francisco. John W. Davis, the Vice Chairman, is tied up with a reception, due to the hospitality of San Francisco, apparently, and sends word to me that he does not want us to wait, and he will come in as soon as he can—it is somewhat indefinite. As the only surviving officer, I call the meeting to order. Whom do you suggest for chairman?

Mr. Henry M. Bates, of Ann Arbor, Mich.: In the absence of the Chairman and the Vice Chairman, I move that the Secretary act as chairman of this meeting.

(The motion was duly seconded.)

Mr. Bates: All those in favor of the motion say "Aye." All those opposed, say "No." The motion is carried.

Mr. Sanborn: I will appoint Mr. Smith, Mr. Woodward, and Mr. Ames as a nominating committee, as this is the only session in which they can come to a conclusion before the close of the session. The address of the chairman is necessarily dispensed with. Mr. Davis has not prepared an address. He intended to simply talk informally, and I will present the report of the Secretary. At the last meeting of the Section, in Cincinnati, certain standards of admission to the bar were approved by the Section, and the Chairman of the Section was instructed to present those standards with certain accompanying resolutions to the Bar Association. The Bar Association, on the next day, after some discussion, adopted the resolutions adopted by the Section the year before. You are familiar with those resolutions, and I will not go over them in detail. After defining the standards which in the opinion of the Bar Association were necessary for admission to the bar, the resolution continued, and, after some other matters, the Council on Legal Education was directed to publish from time to time the names of those law schools which complied with the above standards, and I think those which do not, and to make such

publications thereof so far as possible to intending law students.

The Secretary reports that that classification is now under way, although it has not been completed. All the schools of the country, or at least all of them that are within the reach of those standards, have been asked for information regarding their work, and the Council will proceed with the classification. I may say that it appears from the law magazines, as well as from the committee reports, that come into the Council, that a number of law schools—I have no definite figures as to that number—which have not in the past complied with the standards have announced that within the next year, or within the next two years or three years, they expect to put in force the standards of the American Bar Association. I might repeat the statement, which I made at the Washington Conference, that it is the intention of the Council to give due recognition to these good intentions on the part of law schools, and to differentiate between those law schools which expect to comply in the near future, but which cannot now be upon the Class A list to-day, and those schools which have no such intention, but are remaining, and intend to remain, as far as the evidence goes, in the lower class.

The next recommendation was that the President of the Association and the Council on Legal Education and Admissions to the Bar are directed to co-operate with the state and local Bar Associations, to urge upon the duly constituted authorities of the several states the adoption of the above requirements for admission to the bar. That also is under way, although not as much has been done in that respect as in others, due to the meeting at Washington, to which I will refer in a moment.

The next recommendation is that the Council on Legal Education and Admissions to the Bar is directed to call a conference on legal education in the name of the American Bar Association, to which the state and local Bar Associations shall be invited to send delegates, for the purpose of uniting the bodies represented, in an effort to create conditions favorable to the adoption of the principles above set forth. Immediately upon the adoption of that resolution, the Council of Legal Education, at a meeting in Cincinnati, requested the Council of the American Bar Association on Conference of Bar

Association Delegates to call a special meeting of that conference to be held in Washington, during the winter, in order to carry out that direction of the Bar Association, and a subcommittee of the Council of Legal Education was appointed upon the acceptance of this invitation, by the Council of Conference of Bar Associations, and the Committee of that Council went to work to organize this Conference. Some of you undoubtedly attended that meeting in Washington. I do not intend to go into detail in this report, because it is expected that in the report to the Conference of Bar Associations of the delegates in session to-day, that matter will be fully covered, because that meeting was a Conference of Bar Associations and of the Section of Legal Education, of course.

At the close of that meeting certain resolutions were adopted by the Conference which substantially indorse the position taken by the American Bar Association, and I have copies of those resolutions in case any one should be interested who has not already seen them. That constitutes largely the work of the Council of Legal Education for the past year, and since that meeting a committee of that conference, consisting of one member from each state, has been organized for the purpose of carrying out the fourth recommendation; that is, securing co-operation with the state and local bar associations. That is a matter which, of course, we must simply wait developments on. We are calling attention to the standard taken by the American Bar Association, to the state Bar Associations. It has been discussed by a number of them, has been approved by some of them, and as far as I know, no one has—no state Bar Association has—refused to approve it, although several have put it over for further consideration. I do not have complete figures at this time, because the Bar Associations have been meeting, and so I will make no report upon that. The Executive Committee of the Council asked, as part of the program to-day, that there be a discussion, which I think will be somewhat informal, on the part of Bar Examiners, as to the necessity or advisability of keeping uniform records by such Boards of Bar Examiners, and what those records contain. We have asked that Dean Bates, of the School of Michigan, take part in that discussion.

Mr. Charles F. Carusi, of Washington, D. C.: I understand that a classification is going to be made of those schools which have not hitherto had two years or more of college work, but which have announced the intention to do so within a reasonable time. I understand that they will be put within a particular classification. One of the other recommendations, if I recall it, of the Root Resolutions, was that part-time schools should increase the time so as to make it an equivalent of some sort. My question is whether the announcement of the intention

to do that would be made by you in cases of classification?

Mr. Sanborn: I did not confine my statement to two years of college work. What I intended was that, if a school which does not now comply in any respect with those standards announces its intention in apparent good faith of making up its deficiency, whatever its deficiency might be, that it would be so indicated on any classification which the Council might make.

Mr. Carusi: My reason for asking the question is that it has been announced in my locality by one or two institutions that they intended by 1925 to have a two-year college requirement in force, but no announcement, so far as I know, has been made of any intention to lengthen those part-time courses.

Mr. Sanborn: If the school was deficient in any particulars—had no library, or no valuable one, to give another illustration there, and did not announce its intention of making up that deficiency—I don't see how we could announce that they would comply within any definite period.

Mr. Carusi: As I understood, those whose good intentions are to be reckoned with in the classification must indicate an intention to comply, not merely with the two years' previous college work, but also with the lengthening of their part-time courses, and the maintenance of a school library, and all of the other elements in the recommendation. Is that correct?

Mr. Sanborn: Yes; that is correct.

Mr. Carusi: That is all.

Mr. Bates: I am very sorry to say, since I received your letter asking me to take part in this discussion, the subject-matter of the discussion has been absolutely out of my mind, until you startled me a moment ago by mentioning my name. I have, however, been somewhat closely in touch with the work of our own state Board of Law Examiners, and know what their methods are, and I have also talked with a number of eminent men about the plan they have of getting valuable information for one purpose and another about applicants for admission to practice, and about those who have been admitted. I don't know that I have very much to offer. Obviously, the information should be kept in permanent form, and I suppose it goes without saying that it should contain such necessary data as to age and birthplace, and details of general and of legal education, and the showing as to character, if any, and whatever action is taken upon the application for admission to the bar, and what the results of examination are. The thing that has not been done at all, and to which I would like to call attention as worth while, aside from making this data, or the requirements as to data uniform—and I think that should be done, and perhaps uniform cards kept merely for the purposes of mechanical convenience—aside from that, I believe that

this effort to establish uniformity will not be worth very much unless there is a central bureau in which records may be kept; and to start discussion, if nothing else, I would suggest that a committee be appointed to work out a form of blank or card for record; that this should always be made in duplicate, and that a duplicate should be sent to the central bureau. That bureau or officer, perhaps, might be the Secretary of the Section on Legal Education.

It seems to me important to have this information available at some central place, because there is increasing difficulty, I think, I say that largely on the basis of the experience in Michigan, in determining about the status of the previous experience, standing at the bar, etc., of members who migrate from one state to another, and seek admission in the second state. Our own Committee has frequently been obliged to hold up such applications for months, because it could not get authentic and satisfactory information. And while the keeping of these records would carry that information down only to the time of the admission of the applicant, or his rejection, at least it would be a good start in making available to the various boards in the country that information which they ought to have. This probably would involve some trouble, and some expense. This expense probably the Section of Legal Education could afford to carry. I see no practicable way of imposing any sort of tax or voluntary contribution, or suggesting voluntary contributions in any way likely to produce results; but I do think that it is worth while considering, to repeat briefly, whether we cannot work out a uniform scheme, including the mechanical expression of it, in a card, and file the duplicates of these cards, say with the Secretary of the Section on Legal Education.

Mr. Sanborn: I will ask Mr. Sloss, formerly Justice of the Supreme Court of the state of California, to take part in the discussion.

Hon. M. C. Sloss, of San Francisco, Cal.: Until 1919, this state conducted its examinations through the courts, for many years through the Supreme Court of the state, and from about 1905 on through the Intermediate Court of Appeals, which was established in that year. In 1919, we adopted the system of a state Board of Bar Examiners, consisting of three examiners. I have been a member of the board since its organization, and my experience has been a very brief one, and any views I might have on this subject are the result of that very short period of studying that question.

We have been somewhat hampered, too, by the fact that we have not any association with or assistance from the people engaged in the teaching of the law. The Legislature, in its wisdom, thought it necessary to provide that no one having any connection with a law school should be a member of the

Board of Bar Examiners, or could be connected with the Board of Bar Examiners in any capacity. I presume the reason, or the idea underlying that, was a fear that people connected with a particular law school might frame the examinations in some such way as to favor the students of their particular school. Perhaps, too, the underlying thought was a feeling of hostility to the very kind of regulation that was proposed by the Conference that Mr. Sanborn has spoken of; that is to say, some hostility to requiring a law school, or college training, as the prerequisite to admission to the bar. Of course, you gentlemen will realize that in every state—perhaps more in the Western states than in the East—there is a feeling on the part of a good many people that it is undemocratic to limit the practice of the law, or of any other profession or calling, to those who have enjoyed the advantages of a college training, and I think in this state that feeling is quite strong. Our statute does not require any particular kind of training as a prerequisite of admission to the bar.

The provision of the statute is that the applicant must have devoted three years to the study of the law, and must pass a satisfactory examination. There is no statutory requirement as to the method or place by which or in which those three years shall be devoted to the study of the law. The statute might perhaps be construed in such a way as to permit the Board of Bar Examiners, or the Supreme Court, to make rules which would cover that matter; but the feeling of the board has always been that, until there is a statutory recognition of the necessity for college training, the Board of Bar Examiners will be hardly justified in requiring that. So we have not heretofore imposed any such requirement, and will not do so until the Legislature has specifically authorized it.

I may seem to be wandering a bit from the subject of records, but I think these matters have a direct bearing upon the kind of records we keep; inasmuch as the kind of training is not prescribed in our system, our Board of Bar Examiners would be competent to keep any special record of the kind of preliminary training that an applicant had. Our system has been to have the applicant fill out a printed form of application, in which he shows that he has had three years' study of the law. Necessarily that shows where he has had it. He has either done his study by private reading, or a correspondence school of law, or he has been in the office of some lawyer, under the direction of that lawyer, or he has been at Stanford University Law School, or the University of California Law School, or the Law School of the University of Southern California, or some other school in this state, or some other, for the three years required, and that is the extent of the information that the board has on the subject. Our examination consists of two days of written examination and one

day of oral, and we make it rather a point in the oral examination to go at some length into the question of preliminary training. We find out just the time the applicant devoted to study, where he has studied, and how; but it is not kept in the form of any permanent record, though I think it might well be.

I can see the value of keeping a record of that kind, with a view to throwing light upon the general question which will come before many states—those that have not yet adopted it; that is, the question whether these requirements, standards fixed by the Association, should be adopted. It would be invaluable in that regard to have the data and statistics as to the relative showing of men who have had collegiate or academic training and those that have not. But up to now our board has not kept those things, simply because they look to a requirement that is not contained in our law or in our rules, and we have not thought it incumbent upon us to keep records merely for the purpose of their general statistical value, or with a view to suggesting changes in the law. But, in view of the adoption of the standards by the American Bar Association, it seems to me it would be highly proper to keep these things. Just from the matters suggested by Mr. Bates, it seems to me that there is a good deal of value in that suggestion. If the records of these various important matters could be kept in uniform style on cards, and perhaps put in some central place, copies of them, it would be very useful.

He touched on one other matter, and bearing on our own peculiar problem in California—that is the matter of expense, where the board is financed exclusively from fees paid by applicants for admission and no appropriation from the state Legislature. The Bar Examiners themselves are not compensated in any way, and all of the incidental expenses that we are put to for printing, traveling expenses, clerical expenses, secretarial expenses, and the like, must be met from the fees of the applicants; so that any question of additional expense, not actually necessary for doing the work the board must do, would present a problem that would have to be considered pretty carefully before we could collect it in this state.

Before I leave that question of these uniform standards, I think it is proper to say that I should judge that—in these Western states, at least—it will probably be a considerable number of years before those standards will be universally adopted. I think you may expect to find considerable opposition to that. I noticed, in reading the Proceedings of the Association, or the Conference at which those standards were presented, that there was considerable opposition there. The feeling that it is undemocratic to shut the doors of the profession to any group of men seems to be very general, and the feeling that a poor boy is at a disadvantage if he

cannot enter the profession until he has spent six years in a college and law school—and this is usually the period required—that feeling is a very strong one. It will take a long period of education and discussion before that feeling is overcome generally. Indeed, the fact is that no such discrimination has been made or authorized as yet in this state.

Our board has been rather careful to develop and foster the feeling on the part of the applicant for admission before us that no difference is made, based upon the fact whether a man has had a law school training or has not. Notwithstanding our care in that respect, there is a very general feeling, that we encounter at times on the part of men who have not had a law school training, that they are discriminated against in the examination, and that is based, I think, upon the simple fact that men of that class ordinarily do not do as well in examinations as the men who have had a law school training, and that, of course, is a necessary result, and cannot be helped.

Connected with this question of records, I just jotted down one or two things that our board has met in its short history, and has had particular difficulty with, and that would be very apt to be encountered by those who have to meet the same problems in other jurisdictions, and have had similar experience with them. The question of records, or of the examination as to moral fitness, is one of the things that causes a good deal of difficulty. Take the case of any young man or woman just out of college, or after any period of educational training, and desiring to come up for admission to the bar, the law and the rules of the board require an examination and satisfactory evidence of moral fitness, of good moral character; but I have not as yet discovered or had suggested to me any satisfactory means of inquiring into the moral fitness of a young person who has not been out in life, and has only been through the schools. If they are not morally fit, I do not know how the Board of Bar Examiners are going to find out the fact, and the only evidence that we have—and I presume it is the same method elsewhere—is to require a written report, or a report, rather, with written indorsements from two members of the bar in good standing.

That has been the rule in this state for many years, but I think those indorsements are given, or those recommendations are given, very freely, almost perfunctorily, and are of no very great value as a guide; and that is a subject that our board would like to have some advice on, as to how to find out about these things, and how to keep records of them—how, perhaps, to impose responsibility for that kind of a recommendation upon the man who does give it, so as to make him feel that, if it turns out wrong, he will be looked to in some way to justify what he has said.

Another thing: As to this period of study for three years, whether in a law school or not, when a young man or young woman states upon application that he or she has devoted three years to the study of the law, we find out sometimes that that expression, that requirement, is treated with great liberality of interpretation by the applicant, and when you come to dig into the facts particularly, you find that two years or two and a quarter years, or two and three-eighths years, are considered to mean three years. They fill it out by saying a year and six months at pre-legal work. Perhaps it occurs during the sophomore year at college, of Roman law, or they have read a book on business law and practice, or something of that kind, and they fill out the three years, or they were in the army during the war, and served on a court-martial for a while, and that is the period. That is a difficult thing to deal with.

Another thing that has given us considerable trouble in this state is the practice of law students in law schools trying to get a start of six months or a year, by coming up for their bar examinations before they have concluded their course of legal study, and they make a sort of technical showing of three years' legal study, although perhaps one year of that has been devoted to studies that are not strictly legal. The faculties of all the law schools are at one with our board in this state in feeling that that is an undesirable practice, and that it ought to be discouraged. We feel that it is a disadvantage to a young man to take his bar examination before he has finished his school course; but they do it in great numbers, and it is pretty hard to locate it when they make a statement, a written statement, that they have had three years' study.

We have been contemplating doing what is in force in other states, and that is requiring every man—and I need hardly say that, when I say "man," I include woman—when he begins the study of law, and intends to take a bar examination, to register with the board at the beginning of his period of study, and to re-register at intervals of say six months. If he is in a law school, that should be certified by the official members of the school, the dean of the law school, or some one else; and if he is studying privately, or under some lawyer, to have that lawyer certify to it. That would be something of a check on the three years' study.

Mr. Bates spoke of another thing that I think is equally important, and that is perhaps more important than keeping the records on men who have been admitted in one state, and then go into another state. There has been a great deal of that in this state by reason of various conditions. It is a very common thing for men who practice in other states to come to California, particularly Southern California, and settle here, and seek admission to the bar, and who have

been admitted—men who have come here because of ill health on the part of the applicant himself, or some member of his family, and our board has had in the last two or three years, I should say, well in excess of 100 applicants a year of that kind. In that sort of case we do not feel that we are called upon to make any particular investigation into the legal attainments of the applicant. If a man has been admitted in the highest court of a sister state, and has had three years of common-law practice in that state, as is required by our law, we feel that that ought to be a sufficient guaranty of his ability as a lawyer; but the question of moral fitness comes in, and particularly because men often leave one jurisdiction and come into another, for the reason that they have got into difficulties with Bar Associations or the courts in the states in which they practiced, and they go to some other state, either after they have been disbarred elsewhere, or are in danger of disbarment if they remain.

It is a very difficult thing for the Bar Examiners in any state to learn the facts in those matters, unless they get the fullest co-operation from the people in the state in which the applicant practiced before. Our board has made it a point to be as thorough as possible in those inquiries, and has always required, not only a certificate from the highest judge of the state from which the man comes that he is an attorney in good standing, and entitled to practice in that state, but we require letters of recommendation, particularly as to moral character, from three, four, or five reputable people in the community in which he has lived, and, if there is a Bar Association in that place, we endeavor to get a written record from that Bar Association as to the good standing of the applicant. In that way we manage to keep out from the practice of the profession men who, I am confident, ought not to have been admitted; but it is possible that some have gotten through the meshes, nevertheless.

I think it would be an excellent thing to have, in every state where men are admitted to the bar, definite records of them which would be available to the boards in other states to which they might go, as freely as possible. In that matter, in the case of men who have been engaged in actual practice, the question of moral fitness and professional standing is much more susceptible of definite proof than in the case of a young student, who has never had a chance to show how professional he is. In that regard it would be a great help to all boards if some such system of universal records could be kept, and made available.

Mr. Bates: I would like to state, in answer to the suggestions, that the law in our state now requires the board, in case of a migrant attorney, to make its own independent investigation, and requires a showing, a certificate, from the highest court of the

state; but, in addition, the Board of Examiners require under the law an examination in the place from which the man came, and that I am told by the chairman of the board has been very effective. It has resulted in a rejection of a considerable percentage of the applications—applications which in form were perfect when presented to the board.

Mr. Sloss: I would like to ask you a question: Is it the practice in your state to make an investigation into the legal attainments of these men who come from other states?

Mr. Bates: No, sir; it is not.

Mr. Sloss: Merely the question as to the character and standing.

Mr. Bates: The character and professional standing of the man.

Mr. Sanborn: I would like to say, as suggested by Mr. Sloss, that the thing that suggested this topic for discussion was the fact that, in preparing for the Conference of the Bar Association at Washington, we endeavored to make an investigation such as he suggested with reference to these standards, and we made very little progress, because of the lack of data in the records of the Bar Examiners.

On the question of moral character, I do not propose to go into that; but I can also say that that question has been a subject of very considerable discussion in the Section of Legal Education in the past, and that the records of the American Bar Association contain a great deal of that discussion, and the net result of that, as I recollect it, is that the matter is in a very unsatisfactory state, and no very good method of determining the moral character of the applicant has ever been suggested to this section; and those of you who were familiar with the discussion in connection with these standards adopted by the American Bar Association, and approved by the Conference, will remember that a great deal of stress was laid by those advocating that, upon the fact that the years in the college and the law school had not only a beneficial effect upon the character of the students, but also afforded additional opportunities for obtaining data as to that character, which would not exist where the applicant was trained in some lawyer's office, and he gave him a certificate, as no method of checking that up had been devised.

Is the Nominating Committee ready to report?

The Nominating Committee, consisting of Mr. Reginald H. Smith, Mr. Frederic C. Woodward, and Mr. Alden Ames, reported as follows:

For Chairman, John W. Davis, of New York.

For Vice Chairman, Silas Strawn, of Illinois.

For Secretary and Treasurer, John B. Sanborn, of Wisconsin.

For Members of the Council, term expiring

in 1926, Herbert S. Hadley, of Colorado, and Wade Millis, of Michigan.

Mr. Sanborn: Are there any other nominees? Will you put the motion, Mr. Woodward?

Mr. Frederic C. Woodward, of Chicago, Ill.: Mr. Chairman, I move that the report of the Committee be adopted, and that the names which I have read be elected to the respective offices, and that the Secretary cast a ballot expressing the opinion of this meeting. Those in favor of the motion say "Aye"; those opposed, say "No." The motion is carried.

Mr. F. C. Siddons, of Washington, D. C.: Do I understand that the discussion that Mr. Bates initiated has closed?

Mr. Sanborn: No; I thought we would call for the report of the Committee, and I will be very glad for further discussion.

Mr. Siddons: Unfortunately, I was compelled to withdraw temporarily when Judge Sloss opened his remarks. I have an interest in this subject-matter. I am not at all sure whether Dean Bates' suggestions, followed by whatever Judge Sloss may have said—whether it included, for instance, questions of this character: Members of the bar, of course, of a particular state will go to another jurisdiction, either for permanent or temporary purposes, and seek admission to the bar there. May I inquire whether or not the central bureau that Dean Bates suggested, supplemented by whatever Judge Sloss may have said, would include the records of such persons?

Let me illustrate, what prompts the question: In Washington, we have been in our court repeatedly embarrassed, shall I say, by the applications of practicing lawyers elsewhere to be admitted on motion to the bar of our court. All such applications are referred to the Examining Committee; but usually, I am afraid, their investigation of the standing of the applicants is necessarily inadequate. We have had this experience repeatedly, until a few years ago it was necessary to check it. Membership of the bar of the Supreme Court of the United States sufficed to admit a member to the bar of our court—the bar of the Court of Appeals—until it was found that repeatedly they had secured admission to the bar of the Supreme Court on motion by some one not adequately informed, and we found an increasing number of undesirable members of the bar admitted to the bar of the Court of Appeals of the District, to our own court, the Supreme Court of the District of Columbia. I have before me in mind at the present moment an example of this kind. A man from a state of the Union who had, we learned afterwards, been unable to satisfy the requirements of the Bar Examiners of that state, went to Indiana, established a residence there, and petitioned to be admitted to the bar of Indiana. He then came to Washington, after three years was admitted to the

of the Supreme Court of the United States, and then sought admission to the Supreme Court, the bar of the Supreme Court of the District of Columbia, and the Court of Appeals. He has twice been rejected by both of those courts. Now, does Dean Bates' suggestion involve a record in cases of the character of persons, members of the bar from other states, seeking admission to the bar of the foreign jurisdiction—foreign, I mean in that sense?

Mr. Bates: I think it should.

Mr. Siddons: Then I think you would be doing rather an important—a very important—work, I should say. At the present time there is little or no means of keeping tab at all upon applicants who come to us as members of the bar of a particular state, so far as the original applicant is concerned. Your plan involves no particular difficulty, if you can secure uniform action by the state Boards of Bar Examiners; but I think that your undertaking, to be complete, ought, it seems to me, to take also into consideration the question of the cases that I have suggested.

Mr. Carus: May I add a word? However careful and full the records of the bar examining committee might be, they will necessarily be based upon the state of affairs at the time the man takes his examination at the bar, at the beginning of his professional career in the particular jurisdiction. He may remain at the bar of that particular jurisdiction for three or four or five years. Whatever reciprocity the rule of the other state may require, his conduct may have been anything but desirable, and yet he may not have incurred the penalty of having his name stricken from the rolls. What provision is there in the suggestions for having, in addition to the records of the Board of Bar Examiners, some data as to the subsequent career of the man in question, in the jurisdiction in which he has practiced, in a central bureau which could inform the proper authorities of each state, not merely of the conditions which existed prior to the bar examination, but the man's career since his bar examination? It occurs to me it would relieve the courts of many cases of embarrassment such as Justice Siddons has mentioned.

Mr. Bates: Unless they were to do as I believe they do in France, or some other countries, require an annual license, which might be accompanied by checking up, I suppose, there would not be very complete information available; but that I suppose is unthinkable for this country at present. But suppose a man was admitted in state No. 1, and the record is then made up to that time, and he goes into state No. 2, and stays there for years. At the time of going to the second state, investigation is made, as under the first state, as to his professional standing, his character, and so on, and, if he is found to be a good

it a good deal of valuable information is received. That should be recorded and preserved. Then if he goes into state No. 3—and it is those cases that are the most troublesome, so far as my observation goes—the board of state 3 has access to the information obtained by the boards of No. 1 and No. 2. That is something considerably in advance of anything we have at the present time, although of course far from complete.

Mr. L. S. Forrest, of Des Moines, Iowa: I want to discuss the uniformity matter from state to state, and make a suggestion about the uniformity of bar requirements in a particular state. There is one state in the Union that I have in mind, and, while it has a secondary board, it divides its examinations up into districts, and the district boards, while they are supposed to give the expression that the central board provides, simply report on whether or not the candidates for admission have passed. Some of them give the same examination that is sent them, some give none at all, and some simply make a report; so in those states we have difficulty, and in other states there is this difficulty, that they give two examinations. I have no quarrel where they give no examination at all to law school graduates, but when they give one examination for a state bar examination, and another one to law school graduates, it looks as if that is not uniformity in the requirements for admission to the bar in the same state, and I wondered if it would be well to make the suggestion that we try to make our legislation uniform in a particular state with regard to admission to the bar.

Mr. Sanborn: I may say that I think it has been the attitude of the Section on Legal Education and of the American Bar Association for many years that there should be only one examining body in a single state, and that, of course, assumes that they shall make their examination and their treatment of the applicants as nearly uniform as possible. This method of district boards which I know exists in certain states is entirely out of line with anything which the American Bar Association has ever advocated.

Mr. Forrest: Has this Association ever gone on record as giving two examinations in the same state by the same board, one to one school, and another to another school, at different periods—giving different examinations?

Mr. Sanborn: I do not remember that that particular problem was ever presented. Of course, I assume that in many states we have an examination in the summer, and another one in the winter, given by the same board. It may happen that those examinations will not be of equal severity, although theoretically they would be, and that would, of course, occur equally with any examiners.

Mr. Sloss: With reference to that question that Mr. Forrest just asked, that difficulty has been solved in this state in this

way: We have the greater part of a thousand miles from the north to the south in this state, and the examination is held in three places, widely distant, San Francisco, Sacramento, and Los Angeles, over 500 miles separating Sacramento from Los Angeles. We conduct two examinations a year in San Francisco and in Los Angeles and one a year in Sacramento, in the months of July and January. This year, last month we had examinations in three places, Sacramento, Los Angeles, and San Francisco, and those three examinations, written examinations, covering two days, held upon the same two days in three cities, and upon exactly the same questions, which were prepared in advance. There was absolute uniformity between the examinations in the three places, and the applicants were from all over the state; and I do not imagine that there is any state, except Texas, perhaps, where the geographical difficulties would be greater than here.

Mr. Sanborn: Is there any further business to come before the Section?

Mr. Bates: I do not like to speak too often, but for the purpose of getting some action on the basis of this discussion, I should like to move that the chair appoint a committee, say of five, to make a report at the meeting next year upon a scheme of uniform records for Bar Examiners.

Mr. Sanborn: Would it meet the same object if the matter be referred to the Council?

Mr. Bates: It would. I so amend the motion.

Mr. Sanborn: Does the motion receive a second?

(The motion was seconded.)

Mr. Sanborn: All in favor of the motion, say "Aye"; opposed, "No." The motion is carried. I will see that it is taken up by the Council. Is there any further business to come before the meeting? A motion to adjourn will be in order.

(On motion, duly seconded, the meeting adjourned.)

Statute Law and the Law School

By WALTER F. DODD

Member of the Chicago Bar

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The law is a constantly changing and developing body of rules. The development of law takes place through statutory enactments and judicial decisions. The relative importance of these factors varies from one field to another of the law, and to some extent from one jurisdiction to another. The law of the United States government is primarily statutory. The law of the states, and the law administered by federal courts in controversies between citizens of different states, is a combination of common law and statute.

Constitutional law is theoretically a body of enacted law, though of course superior in authority to acts of legislative bodies. Yet in the Constitution of the United States, judicial construction overweighs the enacted text; and the constitutional law of the United States can therefore be taught almost exclusively from cases. State Constitutions are more detailed documents, but as to them also there is a vast mass of judi-

cial construction covering substantially all subjects. Little effort has been made to use this body of decisions in law school teaching.

Much the greater part of the public law of states and nation, not found in Constitutions, is embodied in the form of statutes. The organization and duties of public officers are statutory, though of course remedies against these officers are still to a large extent found in the common law. Law school courses on constitutional law deal almost entirely with problems presented by the Constitution of the United States. Courses on administrative law, municipal corporations, and similar subjects are based primarily upon judicial decisions, though necessarily dealing to some extent with statutory enactments. Criminal law is chiefly statutory, though its common-law basis is so important that courses on criminal law do not emphasize the statutory character of the subject.

Turning now to fields other than the

distinctly public law, we find the relative importance of statutes less as compared with the public law. Yet the corporation law of the states is largely statutory. Statutes play an increasing share in the development of private law. During the past fifteen years there has been a complete reconstruction by statute of the relationship between employer and employee in case of accident; and this field of the law has been transferred to a large extent into one of public administration. There was a similar and earlier reconstruction by statute as to married women's property rights. Within a short period we have to a large extent transferred from a common-law to a statutory basis the subjects of negotiable instruments, sales and partnership. Upon the conduct of business, we have at the same time built up in the public interest a whole body of statutory restrictions.

What is the relationship between the common law and this growing body of statute law? The relationship is summed up in the often repeated maxim that statutes in derogation of the common law shall be strictly construed—that the expression of legislative will shall so far as possible be subordinated to pre-existing rules.¹ A master of the law has shown the fallacy of this rule and pointed out the danger of its continued application:

"We recognize that legislation is the most truly democratic form of lawmaking. We see in legislation the more direct and accurate expression of the general will. * * * The public cannot be relied upon permanently to tolerate judicial obstruction or nullification of the social policies to which more and more it is compelled to be committed."²

But to what extent can we adopt a broad view as to the place of statutes in the development of the law, when each succeeding generation of students is taught to get its law from cases and to ignore the statutes. The students of to-day are the judges and legal counsel of

to-morrow. Judges rely and must continue to rely primarily upon counsel who present briefs and argue cases; and judicial decisions will reflect the attitude of counsel toward statute law. Witness the complaints for a number of years in the American Bar Association Reports, that courts continued to decide cases upon common-law grounds without reference to the statute, long after a state had enacted the Uniform Negotiable Instruments Act.

Questions as to the validity and construction of statutes present themselves in increasing number to the courts; and for their consideration the law school graduate has little preparation from his courses based upon case books. The chief problems of criminal law and judicial administration are to-day occasioned by the great mass of new statutory offenses,³ but to what extent is the law school graduate aware of this fact?

The things which a lawyer may be expected to need with respect to statute law are the following: (a) A knowledge of the part statutes play in the development of the law, and of their relation to the common law; (b) the more common limitations found in constitutions upon procedure in enacting legislation and upon the substance of legislation itself; (c) a general view of the problems involved in the drafting and interpretation of statutes; (d) the legislative organization for the enactment of statutes; and (e) the statutory basis of the law in the jurisdiction in which he practices. To what extent does the student obtain this knowledge from the law school course as now organized?

It may be urged that the student does or should obtain a sufficient knowledge of statutes from the courses now commonly given in the law school. When a statute has been in force long enough, its consideration becomes an incident to case discussion. This is true of the statute of frauds. It may become true of such phrases as "accidents arising out of and in the course of the employment," commonly found in workmen's compensation laws. As more and more common law

¹ For a wise rejection of this rule see *Commercial Nat. Bank v. Canal-Louisiana Bank & Trust Co.*, 239 U. S. 520, 38 Sup. Ct. 194, 60 L. Ed. 417, Ann. Cas. 1917E, 25 (1915).

² Roscoe Pound, *Common Law and Legislation*, 21 Harv. Law Rev. 383.

³ See Edwin R. Keedy, *Administration of the Criminal Law*, 31 Yale L. J. 240.

principles come into statutes, each law school course may perhaps be expected to devote more attention to legislative enactments, and problems involved in their construction. In the application of the case method to each subject, the student may be given a notion of the importance of statutes; and this plan employed throughout the law school curriculum would emphasize the importance of statutes, equally with judicial decisions, as a factor in the growth even of the private law. Such a plan is highly desirable, but it yet leaves an important residue of legal knowledge nowhere covered in the law school course.

Why have courses in statute law not become popular in American law schools? The reasons are three: (a) The fact that the case method is an effective method of teaching and has not been regarded as applicable to courses on statute law; (b) the unsatisfactory character of some of the courses which have been given in the field of statute law, and the uncertainty of those advocating such courses as to what should be the purpose and content of the course; (c) the difficulty in expanding the law school curriculum.

It would be impracticable and unnecessary to attempt to teach the whole substance of the law through statutes. Statutes are in their form not as teachable as cases; and a student is likely to gain little from a course which merely analyzes statutes picked from the whole legal field. A law school drawing its students from a number of states has an added difficulty. Statutes vary from state to state; and even where their language may be the same, judicial constructions vary. Not only this, but the statutory language is in most states subject to change each two years, and in others more frequently. To the law school teacher, inexperienced as he usually is in the field of statutes, legislation appears to be merely a headless and systemless mass of unrelated rules, meriting little consideration and receiving less. To some extent this is true, just as it is true that case law has much the same characteristics, except as it is systematized and given an appearance of uniformity in the case books.

What is usually taught in the law schools is not the law as anywhere in force, but a generalized body of more fundamental principles underlying the law in all jurisdictions. There is much to be said for this method of teaching, especially in schools not drawing students primarily from one jurisdiction; but the argument even here is not entirely one-sided; and an effective plea has been made for case-books of local law.

What of value can be taught in a course on statute law, and how can such a course be taught? It must, of course, be assumed that such a course will not duplicate subjects adequately covered in other courses. The technical task of drafting statutes is one which may be taught in a few highly specialized courses; but a course aiming at such a result would be out of place as one for all students. Some exercise in drafting proposed legislation is desirable, but the technical basis for drafting bills cannot be taught in and of itself. In the first place such a basis requires as a preliminary a thorough knowledge of the constitutional law of the particular jurisdiction, of its governmental organization, its legislative practices, the statutory basis of its law, and the statutory and common law of the state upon the subject within whose field the drafting is to be done. In the second place a course upon statutes must give students something they are likely to need, and the drafting of proposed statutes will not appeal to them or to law school administrators as sufficiently meeting a general need.

A satisfactory course in statute law should, however, give a lawyer the basis for drawing statutes, should this task come his way. For this purpose, a technical course in drafting is likely to prove unsatisfactory, though efforts may now be made to give such a course upon the basis of the outline presented in the final report of the American Bar Association's special committee on legislative drafting, presented in 1921. This report, while excellent for its intended purpose, does not present a satisfactory outline of a course. Much better results would probably be obtained from a course emphasizing the fundamental knowledge necessary for

statutory drafting. Such a course is given to advanced college students by Professor Arnold B. Hall of the University of Wisconsin, and under such a plan many points can be taught by the use of cases.

Nor does it seem practicable to the present writer to teach statute law, upon the assumption that such a course shall deal primarily with the theoretical or historical relations between common law and statutes. It appears equally undesirable to devote such a course to the analysis of specific statutes, for the purpose of bringing out the chief problems of draftsmanship. The subjects here referred to should be covered in any course, and knowledge as to them should be the necessary result of a course, but not the basis. No subject taught theoretically or abstractly will or should commend itself to those who are students of the law, if it can be taught concretely. Theory and history are important, but can be tied up with problems of the present law.

The need for courses in statute law cannot be met by courses in contemporary legislation, valuable as they are. There will always be new social, economic and industrial problems to be met by legislation; and as a citizen each lawyer should have some training in these subjects. A valuable outline of a course in contemporary legislation has been prepared by Dean John H. Wigmore.⁴ The study of broad policies of legislation is important, but is not the purpose of a course on statute law. Some elements of a course in statute law are provided separately at the Northwestern University Law School. At that school a course on legal sources is now being given, with practical exercises in finding the statute law and in determining the relation between statutes and judicial decisions in particular jurisdictions.⁵

What practical and theoretical needs can be united in a course on statute law? State constitutional law is primarily a body of law dealing with limitations on

the powers and procedure of state Legislatures. These limitations vary from state to state, and their judicial construction varies; but the rules and their construction are largely the same, and can be generalized for all but a few of the states. The constitutional law of the United States is taught in all law schools; but state constitutional law is taught in substantially none, though in the life of the practicing lawyer issues of state constitutional law are likely to be ten times as numerous.⁶ State constitutional law is the fundamental basis for a knowledge of what may be accomplished through legislation, and is at the same time of value to the practitioner. Its usefulness is not weakened by the fact that a knowledge of it is necessary to the drafting of state statutes. State constitutional law can be most effectively taught through cases from a single jurisdiction; but a large body of its rules may be generalized, and taught to groups who come from different states. It forms a large part of the necessary subject-matter of an effective course dealing with statute law.

Another fundamental element in a course on statute law is that of investigating the statutory material of the jurisdiction in which the student is to practice. This investigation may well precede the study of state constitutional law, and should take into account the extent to which common-law principles have been replaced by statute, and the attitude of the state courts in the construction of statutes. Though this study may be most effective if localized to a particular state, yet much of this material may be generalized. For example, the case of *Thompson v. Thompson*⁷ forms the basis for a discussion of judicial construction and application. Perhaps no better plan presents itself in

⁴ Recent Phases of Contemporary Legislative Proposals, 15 Ill. Law Rev. 141.

⁵ John H. Wigmore, The Job Analysis Method of Teaching the Use of Law Sources, 16 Ill. Law Rev. 499.

cussion of the respective functions of judicial and statutory law-making. For this discussion, such a case as *Meeker v. East Orange*⁸ will be of value, and aid may be obtained from *Dicey's Law and Public Opinion in England in the Nineteenth Century*.

A third element which may go to make up a course on statute law is a series of topical assignments upon specific subjects each in a single jurisdiction, in much the form outlined by Dean Wigmore in 1922. In such topical exercises detailed principles of statutory construction may be emphasized. Such practical exercises may be supplemented by carefully planned exercises in bill-drafting. Such exercises belong at the end of a course.

The content of a course may be worked out in more concrete fashion for a single jurisdiction, but much the same plan may be employed in a generalized course. The suggestions made above may be grouped into the form of an outline:

- (1) Statutory basis of the law.
- (a) Extent to which the law is found in statutes.
- (b) Cases illustrating in a general way the judicial construction of statutes.
- (c) Cases illustrating manner in which the courts establish new legal principles.
- (2) State constitutional law, studied from cases, but with discussion of legislative organization and practical problems of legislation.
- (a) Definite and indefinite constitutional provisions.⁹
- (b) Procedural and formal limitations upon legislative bodies.
- (c) Substantive limitations on legislative power.
- (3) Topical analysis of relation between common law and statutes; and, if it is desired, exercises in bill drafting.¹⁰

⁸ 77 N. J. Law, 623, 74 Atl. 379, 25 L. R. A. (N. S.) 465, 134 Am. St. Rep. 798 (1909).

⁹ Upon this see an article by the writer in 20 *Columbia Law Rev.* 635.

¹⁰ The class in Statutes in the University of North Carolina School of Law uses an outline in some respects similar to that above indicated.

The law school course is largely fixed, both as to its length and its subject-matter. It must give precedence to the subjects of more immediate need, and must decline ready admittance to a new subject (at least as a required course), until that subject has overcome the presumption against it. But to deny admittance to new subjects, at least as electives, and to refuse any readjustment of required courses, is to stagnate. The importance of teaching statute law has been ably presented to the Association of American Law Schools,¹¹ but rapid progress in the introduction of such a course has not been made.

To what extent is this the fault of the law school, and to what extent the fault of the course? Of the courses given upon this subject in American law schools, each appears to have been given upon a different plan, and each appears to have had a different purpose, so far as it has had any specific purpose. Experimentation is desirable in a new subject, but some agreement as to the purpose of the course is also desirable. This article is merely an attempt to analyze the problem, as a basis for possible agreement.

From the standpoint of the needs of its students, the American law school must give more attention to statutes. Much may be accomplished by an independent course on the subject, but all courses in the law school should at the same time devote some attention to the statutory basis of the law. Statute law is subject to criticism and should be criticized, but it should not be ignored by the law school. Competent criticism of and emphasis on statutes by law school teachers would aid materially in improving the body of statute law. At the same time it would send forth more effectively trained lawyers, and set in motion forces for statutory improvement in future generations.

¹¹ By Professor Ernst Freund of the University of Chicago Law School and Dean John H. Wigmore of the Northwestern University Law School.

Registration in Law Schools Fall of 1922

Note: Registration figures were obtained in October, 1922. Schools are arranged alphabetically by states. Some of the schools in the list have lengthened their course so that this table does not show in every instance the number of years of study that is now required.

SCHOOL	1st Year.	2d Year.	3d Year.	4th Year.	Summer.	Graduate.	Special.	Duplicate.	Total.
Birmingham-Southern College of Law, Birmingham, Ala.....	25	15	6						46
University of Alabama Law School, University, Ala.....	56	49	37						142
University of Arizona Department of Law, Tucson, Ariz.....	23	15	10				22		70
University of California School of Ju- risprudence, Berkeley, Cal.									
Third Year Curriculum.....	83	49	34						
Fourth Year Curriculum.....	51	52	30	25					824
¹ St. Vincent School of Law, Loyola Col- lege, Los Angeles, Cal.....	34	21	11						66
University of Southern California Law School, Los Angeles, Cal.....	141	131	125	5	223		*190		435
Hastings College of Law, San Francis- co, Cal.....	39	42	33						114
University of St. Ignatius Law School, San Francisco, Cal.....	72	48	26	29					175
Y. M. C. A. Law School, San Francisco, Cal.	26	7	12	4					49
Leland Stanford, Jr., University Law School, Stanford University, Cal....									†204
University of Colorado Department of Law, Boulder, Colo.....	45	20	24				15		104
University of Denver School of Law, Denver, Colo.....	54	73	18						145
Westminster Law School, Denver, Colo.	62	24	20						106
¹ Hartford College of Law, Hartford, Conn.	38	18							56
Yale Law School, New Haven, Conn....	109	82	73	10					274
Catholic University of America Law School, Washington, D. C.....	28	24	17			2			71
Georgetown University Law School, Washington, D. C.									
Morning School	115	77							
Late Afternoon School.....	312	292	253			87	69		1205
George Washington University Law School, Washington, D. C.....	376	240	201	30			78		925
National University Law School, Wash- ington, D. C.....									650
Y. M. C. A. Law School, Washington, D. C.....	30	30							60
Howard University, Washington, D. C.	45	38	42						125
John M. Langston School of Law, Wash- ington, D. C.....	11	14	12	3					40

¹ New school classes not yet complete.

*To be subtracted.

SCHOOL	1st Year.	2d Year.	3d Year.	4th Year.	Summer.	Graduate.	Special.	Duplicate.	Total.
Washington College of Law, Washington, D. C.....	44	61	56	20				*10	171
University of Florida Law School, Gainesville, Fla.....	101	45	24				20		190
University of Georgia Law School, Athens, Ga.....	70	42	19						131
Atlanta Law School, Atlanta, Ga.....	75	50							125
Lamar School of Law, Emory University, Atlanta, Ga.....	26	21	17						64
Mercer University Law School, Macon, Ga.	36	28	0	0					64
University of Idaho Law School, Moscow, Idaho.....	32	18	15						65
College of Law, Illinois-Wesleyan University, Bloomington, Ill.....	56	34	16						106
Chicago Law School, Chicago, Ill.....	75	50	45	25					195
De Paul University Law School, Chicago, Ill.									
Day School.....	60	49	32						
Evening School.....	88	67	35	26					857
John Marshall Law School, Chicago, Ill.	82	48	26						156
Loyola University Law School, Chicago, Ill.	62	33	19	18					132
¹ Mayo Federated Colleges, College of Law, Chicago, Ill.....	53	33	6						92
Northwestern University Law School, Chicago, Ill.....	70	58	50			5	14		197
University of Chicago Law School, Chicago, Ill.....	212	123	131	4					470
University of Illinois Law School, Chicago, Ill.....	84	39	20						143
Indiana University Law School, Bloomington, Ind.....	59	50	42				75		226
Benjamin Harrison Law School, Indianapolis, Ind.....	45	35							80
Drake University Law School, Des Moines, Iowa.....	35	41	40						116
Iowa State University Law School, Iowa City, Iowa.....	101	66	56						223
University of Kansas Law School, Lawrence, Kan.....	31	37	59				24		151
Washburn College School of Law, Topeka, Kan.....	30	10	5	21		16			82
State University College of Law, Lexington, Ky.....	41	38	23				4		106
Jefferson School of Law, Louisville, Ky.	58	40					5		103
University of Louisville Law Department, Louisville, Ky.....	16	8	9				7		40
Loyola University Law School, New Orleans, La.....	101	62	43	12					218
Tulane University Law School, New Orleans, La.....	25	20	19				8		67
University of Maryland Law School, Baltimore, Md.....	230	166	161						557
Boston University Law School, Boston, Mass.	358	244	167			10	7		786
Northeastern University School of Law, Boston, Mass.....	315	172	100	73					660
Northeastern University School of Law, Springfield, Mass.....	33	18	11	7					69
Northeastern University School of Law, Worcester, Mass.....	45	20	9	25					99

¹ New school classes not yet complete.

*To be subtracted.

SCHOOL

	1st Year.	2d Year.	3d Year.	4th Year.	Summer.	Graduate.	Special	Duplicate.	Total.
Portia Law School, Boston, Mass.....	125	61	55	36			29		308
Suffolk Law School, Boston, Mass.....	725	420	200	135					1480
Harvard University Law School, Cambridge, Mass.....	431	261	232			13	82		1019
Detroit College of Law, Detroit, Mich...	181	215	123						519
University of Detroit Law School, Detroit, Mich.....	97	90	68						255
University of Michigan Law School, Ann Arbor, Mich.....	183	120	109	3			4		419
Minnesota College of Law, Minneapolis, Minn.	131	132	84						347
Northwestern College of Law, Minneapolis, Minn.....									†205
University of Minnesota Law School, Minneapolis, Minn.....	131	87	54						272
St. Paul College of Law, St. Paul, Minn.	131	96	51						278
University of Mississippi Law School, University, Miss.....	34	40							74
University of Missouri Law School, Columbia, Mo.....	41	30	27						98
Kansas City School of Law, Kansas City, Mo.....	264	171	90						525
Y. M. C. A. Law School, St. Joseph, Mo.	14	13	9	6					42
Benton College of Law, St. Louis, Mo...	45	41	27	40		8			161
City College of Law and Finance, St. Louis, Mo.....	42	31	27						100
St. Louis University Institute of Law, St. Louis, Mo.....	120	142	94	60					416
Washington University Law School, St. Louis, Mo.....	64	64	55				29		212
University of Montana Law School, Missoula, Mont.....	24	20	17				13		74
University of Nebraska Law School, Lincoln, Neb.....	65	66	68	2					201
Creighton University Law School, Omaha, Neb.....	72	62	52						186
University of Omaha School of Law, Omaha, Neb.....	32	27	18	16					93
New Jersey Law School, Newark, N. J.	299	156	108				2		565
Albany Law School, Albany, N. Y.....	135	91	76						302
Brooklyn Law School, Brooklyn, N. Y....	592	299	210			17	10		1128
Buffalo Law School, Buffalo, N. Y.....	102	71	50						223
Cornell Law School, Ithaca, N. Y.....	55	25	23				2		105
Columbia University School of Law, New York City.....	243	207	171			7	23		651
Fordham University School of Law, New York City.....	548	423	257				14		1242
New York Law School, New York City..	444	193	108						745
New York University Law School, New York City.....	617	467	315	25					1424
Syracuse University Law School, Syracuse, N. Y.....	91	70	51						212
University of North Carolina Law School, Chapel Hill, N. C.....	65	40	6						111
Trinity College Law School, Durham, N. C.....	11	9							20
Wake Forest College Department of Law, Wake Forest, N. C.....	25	23	37				75		160
Wilmington Law School, Inc., Wilmington, N. C.....	6	6							12
University of North Dakota Law School, Grand Forks, N. D.....	17	12	9						38
Ohio Northern University College of Law, Ada, Ohio.....	70	60	20						150

SCHOOL	1st Year.	2d Year.	3d Year.	4th Year.	Summer.	Graduate.	Special.	Duplicate.	Total.
¹ Akron Law School, Akron, Ohio.....	50	37							87
College of Law, University of Cincinnati, Cincinnati, Ohio.....	14	23	24						61
Y. M. C. A. Law School, Cincinnati, Ohio.	79	49	17	22					167
St. Xavier College Law School, Cincinnati, Ohio.....	45	40	30						115
Cleveland Law School, Cleveland, Ohio.	237	153	123						513
John Marshall Law School, Cleveland, Ohio.	195	112	70			29			406
Western Reserve University Law School, Cleveland, Ohio.....	77	61	58						196
University of Ohio Law School, Columbus, Ohio.....	123	67	42						232
St. John's University Law School, Toledo, Ohio.....		28	10						38
Youngstown Ass'n School of Law, Youngstown, Ohio.....	30	35	32	25					122
Oklahoma University College of Law, Norman, Okl.....	125	75	55						255
Northwestern College of Law, Portland, Ore.	45	37	38						120
Willamette University College of Law, Salem, Ore.....	18	20	13				1		52
Dickinson School of Law, Carlisle, Pa..	53	78	120						251
University of Pennsylvania Law School, Philadelphia, Pa.....	117	78	43						238
Temple University Law School, Philadelphia, Pa.....	95	63	62	30			10		260
Duquesne University Law School, Pittsburgh, Pa.....	54	31	33						118
Pittsburgh Law School, Pittsburgh, Pa..	97	59	45						201
Northeastern University School of Law, Providence, R. I.....	26	9	22						57
University of South Carolina Law School, Columbia, S. C.....	65	58	11				5		139
University of South Dakota Law School, Vermillion, S. D.....	38	22	15				8		83
Chattanooga Law School, Chattanooga, Tenn.	40	19	22						81
University of Tennessee Law School, Knoxville, Tenn.....	23	18	9				5		55
Cumberland University Law School, Lebanon, Tenn.....									178
University of Memphis Law School, Memphis, Tenn.....	50	40							90
Vanderbilt University Law School, Nashville, Tenn.....	113	43	25				20		201
University of Texas Law School, Austin, Tex.....	123	113	62						298
University of Virginia Law School, Charlottesville, Va.....	58	102	73						233
Washington and Lee University Law School, Lexington, Va.....	40	50	44						134
Norfolk Night Law School, Norfolk, Va.	20	8	12						40
T. C. Williams School of Law, Richmond, Va.									
Evening Division.....	46	51	18						
Morning Division.....	25								140
University of Washington Law School, Seattle, Wash.....	58	53	38						149

¹ New school classes not yet complete.

SCHOOL	1st Year.	2d Year.	3d Year.	4th Year.	Summer.	Graduate.	Special.	Duplicate.	Total.
Gonzaga University Law School, Spokane, Wash.....	20	18	8	6					52
University of West Virginia Law School, Morgantown, W. Va.....	43	20	21				6		90
University of Wisconsin Law School, Madison, Wis.....	80	75	54				60		269
Marquette University Law School, Milwaukee, Wis.									
Day Division.....	57	73*							130
Evening Division.....	82	59	60	36					237
University of Wyoming Law School, Laramie, Wyo.....	17	5	4						26
Osgoode Hall Law School, Toronto, Canada.	129	107	107						343
	13403	9517	6560	779	223	194	741	*200	31217
									†1237
									32390

* Covers three upper classes.

*To be subtracted.

†Totals not itemized.

Notes and Personals

Several changes in the faculty appear at the opening of the present session of the Yale Law School. Herschel W. Arant, who has been Assistant Professor of Law for two years, resigned on July 1st to become Dean of the University of Kansas School of Law. Although he will be much missed, his many friends cannot but congratulate him upon his call to a position which offers unusual opportunities to advance the cause of legal education in the progressive state of Kansas.

Much of Professor Arant's work will be taken over by Kari Nickerson Llewellyn, who has been appointed Assistant Professor of Law. Mr. Llewellyn received from Yale the degrees of B. A. in 1915, LL. B. in 1918, and J. D. in 1920. He served as instructor in the Yale Law School during the academic year 1919-20. Since that time he has been engaged in the practice of law in New York City. His record as a student and an instructor justifies the prediction of a successful teaching career for him. Professor Llewellyn's courses will be Bills and Notes, Persons, Sales, and Labor Law.

Walter Wheeler Cook, Professor of Law at Columbia University for the past three years, has returned to Yale. Professor Cook received from Columbia University the degrees of B. A. in 1894, M. A. in 1899, and LL. M. in 1901. He has been engaged in law teaching

for twenty-one years and is recognized as one of the most scholarly and successful teachers in the profession. He taught at Yale from 1916 until 1919, and his return to the Yale Faculty is a cause for congratulation by all friends of the school. Professor Cook's subjects will be the Equity courses and Common-Law Pleading.

With these exceptions the personnel of the faculty remains unchanged. Several changes in the curriculum, however, should be mentioned. Professor Vance will offer a course in State Insurance and Professor Corbin will give a course in Legal Analysis. Judge Gager's death has left open the courses in Mortgages and Legal History. The former will be given by Professor Thurston; the latter by Assistant Professor Woodbine, who has during the summer prepared a series of cases, so that Legal History will be taught by the case method. The course in Public Service Law will be taught by Professor Clark, and Professor Borchard will teach Administrative Law.

The enrollment continues to show a slight increase, two hundred and thirty-four students, exclusive of those from other departments of the University, having registered up to this time. A comparison of the registration this year and last year is given below:

	1921-1922.	1922-1923.
Graduate Class	3	10
Third Year Class	72	73
Second Year Class	62	81
First Year Class	78	72
Students from other departments of the University	47	40
Total	262	276

The decrease in the number of college seniors registered in the Law School is due to the new requirement that academic students taking the combined course shall devote their entire time during the fourth year to law courses.

During the 1922 Summer Session seventy-seven students registered for the first term and eighty for the second term, the total number for the summer being one hundred and fifty-seven. Eight completed the course and have been recommended for their degrees. The session was divided into two terms of five weeks each. Criminal Law, Property I, Evidence, Public Service Law, Suretyship, Equity III, and Municipal Corporations were offered during the summer. Professor W. L. Summers, of the University of Illinois Law School, taught Criminal Law, and the course in Municipal Corporations was taught by Professor W. A. Sturges, of the University of South Dakota Law School. The other courses were taught by the regular members of the Law Faculty.

In the Law School this year eighty-one colleges and universities are represented.



In the Harvard Law School there is an increase in attendance over last year of 50 in the first year class and of 17 in the whole school; a total of 1,019 students having enrolled.

Dean Pound, after a year's absence in Europe, has resumed his duties as Dean, and is giving the courses in Roman Law, Jurisprudence, and Equity. Professor Wambaugh will be absent during the second half year. This has made necessary the following changes in the curriculum. The course in Constitutional Law will be given by Professor Wambaugh in the first half-year, and will consist of four hours a week. The course in Agency will be given by Assistant Prof. Magruder. The course in Legal History will be given by Mr. Percy H. Winfield, Fellow of St. Johns College, Cambridge, England.



The registration in the School of Jurisprudence of the University of California for this term is three hundred and twenty-four. Of this number one hundred and thirty-nine are college graduates; sixteen colleges being represented. Eighty-three students are enrolled in the first year of the three-year curriculum, forty-nine in the second year, and thirty-four in the third year. Fifty-one

students are registered in the first year of the four-year curriculum, fifty-two in the second, thirty in the third, and twenty-five in the fourth year. Thirteen special students are enrolled; the majority being federal vocational students. The registration for the fall semester of 1921-22 was three hundred and ten.

Professor Orrin K. McMurray is absent during the year 1922-23 as exchange and visiting Professor of Law at Columbia University. During the first half of the academic year Munroe Smith, as exchange professor from Columbia, is giving a course in the History of European Law, and a seminar in Roman Law. Professor Munroe Smith has been for many years professor of Roman Law and Comparative Jurisprudence at Columbia University, and was recently appointed James Bryce Professor of European Legal History.

Professor George Purcell Costigan, Jr., has been added as a permanent member of the faculty of the school. Professor Costigan is a graduate of Harvard College and of Harvard Law School. He practiced law for several years at Salt Lake City and at Denver. After teaching for a time at Denver, he became Professor of Law, and later Dean, of the Law School at Nebraska University and then Professor of Law at Northwestern Law School. He has written texts on the Performance of Contracts and on American Mining Law, and case-books on Contracts, Wills, Mining Law, and Legal Ethics. Professor Costigan has charge of the courses in Equity, Trusts, Conflict of Laws, and Quasi Contracts.

Professor Robert McNair Davis, from the University of Arizona, has been appointed lecturer in law for the year 1922-23. Professor Davis studied law at the Harvard Law School and at the University of Chicago. After practicing law in Portland, Oregon, he became associated with the University of Arizona. He gave the course in Corporations during the Summer Session of 1921 at the University of California. He is now giving the courses in Common-Law Pleading, the Law of Associations, and the Law of Public Service Companies.

Mr. C. J. Struble, J. D., University of California, 1919, has been made Lecturer on Commercial Law.

Miss Rosamond Parma, Law Librarian, has been appointed Lecturer in Law, and is giving the course in Legal Bibliography.

During the Summer Session Judge Andrew A. Bruce, of the University of Minnesota, gave two courses, one in Suretyship, and one in Damages. Charles G. Neeley, Professor of Constitutional History and Law in Pomona College, gave a course in Elementary Law. Professor A. M. Kidd, of the faculty of the School of Jurisprudence, gave a course in Criminal Law and Procedure, and Mr. M. W. Dobrzensky, of the School of Jurisprudence, a course in Commercial Law. Courses in Criminology were given by Dr.

Jau Don Ball, Lecturer in Psychiatry and Criminology in the Summer Session, Dr. Herman N. Adler, criminologist in the Department of Public Welfare, State of Illinois, Edgar Oscar Heinrich, consulting expert in Criminal Investigations of San Francisco, August Vollmer, Chief of Police of Berkeley, and Albert Schneider, Professor of Pharmacognosy, University of Nebraska, and Director of the Berkeley Police School.

Professor Austin T. Wright, of the faculty of the School of Jurisprudence, gave a course in Admiralty Law during the first term of the Summer Quarter at the Stanford Law School. He is now giving a course in Corporations at Stanford, in addition to his regular work in the School of Jurisprudence.

The California Law Review has just completed its tenth volume, and expects to issue an index covering volumes 1 to 10 very shortly.



The following changes in the faculty have taken place at the University of Illinois College of Law:

Dean Henry Craig Jones resigned his position at this school last summer, to take a similar position at Iowa State University. Professor Francis S. Philbrick has been appointed to a full professorship. Professor Philbrick holds the degrees of B. S. and M. A. from the University of Nebraska, a Ph. D. from Harvard, and an LL. B. from Columbia. He was for a number of years on the editorial staff of the Encyclopedia Britannica. He has spent some years in the practice of law, and has held successively the position of professor of law at the University of California and Northwestern University.

Professor E. W. Hope, who held the position of professor of law and law librarian, has resigned in order to further equip himself in the study of law. Miss Mary S. Foote has been appointed law librarian. Miss Foote holds the degrees of Ph. B. from the University of Chicago and M. A. from Yale University. She has for the past nine years occupied the position of law librarian of the New Haven County Bar library. Miss Foote has also taken over the duties of lecturer on Legal Bibliography.

Upon Dean Jones' resignation Albert J. Harno was appointed to the deanship of this school. Mr. Harno holds the degree of B. S. from Dakota Wesleyan University and the degree of LL. B. from Yale University. He practiced law three years at Los Angeles, California, and after that held successively the following positions: Dean and professor of law, Washburn College of Law, 1917-1919; professor of law, University of Kansas, 1919-1921; professor of law, University of Illinois, 1921-1922; present position, Dean and professor of law, 1922-

In addition to the ordinary three-year curriculum in law, there was adopted and put into effect this year at the law school a four-

year curriculum in law. The admission requirement to this curriculum is sixty hours of credit in a college of this University, or equivalent credit from another college or university of recognized standing. Students admitted to this curriculum are candidates for the undergraduate degree of Bachelor of Science in two years and the degree of Bachelor of Laws or of Doctor of Laws upon the completion of the four-year curriculum. This course offers opportunity for the student to enlarge the scope of his choice in law subjects. It also gives opportunities for a wider study in public law and in the social sciences.



Dean M. J. Bowman, of the Valparaiso University Law School, is serving as acting president of the University and is conducting a part of his classes in law. Prof. Virgil E. Berry is serving in the capacity of acting Dean of the Law School.

Prof. E. D. MacDougall, A. B., LL. B., who has done graduate work in Kansas University and the University of Chicago, has been added to the law faculty and is now teaching Contracts and Bills and Notes. He will also have charge of the Library Course in Brief Making.



The changes in the faculty at the University of Kansas School of Law are as follows: Assistant Professor C. G. Hagland has resigned to take a position in the University of Wyoming Law School. Professor Thomas A. Larremore, of the Tulane University Law School, has been appointed to fill the place made vacant by Professor Hagland. Dean H. W. Arant has been appointed to fill the vacancy in the deanship, which has been unfilled since the death of Dean Green two or three years ago. Professor John E. Hallen has been made associate professor.

The so-called quarter system, which has obtained for several years, in the Law School, has been abolished, and the semester system adopted instead. The following courses are given by the following men: Dean Arant is giving the courses in Contracts, Bills and Notes, and Suretyship. Professor Larremore is giving courses in Conflict of Laws, Personal Property, Municipal Corporations, Agency, and Master and Servant, and what we call Practice Court I, a course which deals with forms of action at common law and with the use of law books and preparation of briefs. Professor Hallen has taken up the subject of Evidence, and Professor Rice has taken the subject of Private Corporations. Professor Strong will give the course in Trusts.

The number of teaching hours per week has been reduced from ten hours to eight hours.

The requirements for admission have been made a little more strict. Heretofore sixty hours of any college work, which would be

counted toward a bachelor's degree in the college, has been accepted as satisfying the requirements for admission. Hereafter a student who presents sixty hours must have at least three-fourths of it of the grade of C or better, and, in case he presents more than sixty hours of work, two-thirds of all work taken must be of C grade or better. It has also been provided that a student who makes less than a passing mark in the Law School in any two subjects in a semester is automatically excluded from the school. The same result follows when a student, in any year's work, fails to obtain a grade of C or better in one-half of the units of work taken during such year. Stricter rules have also been passed with reference to attendance upon classes. Under the former requirement, a student was eligible for graduation if two-thirds of the hours required were of C grade or better. This has been changed so that three-fourths of all work hereafter taken must be of C grade or better in order to render one eligible for graduation.

The honor system will very probably be introduced into the school during the year.



The work of instruction in the University of Chicago Law School during the Summer Quarter, 1922, was assisted by Dean George G. Bogert, Dean of the Cornell University College of Law, Professor Arthur M. Cathcart, of the Stanford University Law School, and Professor Lyman P. Wilson, of the Cornell University College of Law. Two hundred and eleven students were in attendance during the summer.

Albert Martin Kales, professorial lecturer on the Law of Future Interests in the University of Chicago Law School, died of typhoid fever on July 27, 1922, at the Evanston Hospital. He had been a professor of law in the Northwestern University and Harvard University, and a practitioner at the Chicago Bar for many years. He was considered perhaps the strongest man in the United States in his specialty, the Law of Future Interests, of which he was a devoted student, and upon which he had written much. As a teacher, practitioner, and friend he had made a deep impression in many circles, where his loss is keenly felt.

The following notice of Mr. Kales appeared in the Harvard Alumni Bulletin:

"In his undergraduate days he was stroke oar of the University crew and was prominent in other college activities. In later years he became one of the leading lawyers and teachers of the law in this country. Since 1901 he had practiced his profession in Chicago, since 1917 as a member of the firm of Fisher, Boyden, Kales & Bell. At the Law School of Northwestern University he was a lecturer from 1900 to 1902, Professor of Law from 1902 to 1910, and Professor of the Law of Property from 1910 to 1916. He was a Professor in the Harvard Law School in 1916-17. He had been counsel in many important legal cases,

was an authority on the law of wills and real estate, and author of many books and articles on legal subjects. He was a member of the American Bar Association, the Illinois Bar Association, and the American Judicature Society. He was married and had three children."



The registration figures for the School of Law of Columbia University show an increase of about fifty students over the corresponding date last year. In explanation of these registration figures, it is of interest to know that this increase in registration has been accomplished in spite of the raising of standards of scholarship and the putting into effect of a rule whereby students who do poor work are excluded from the school. During this fall, seventy-six students previously registered have been excluded from the school on the ground of deficient scholarship. The students would have been received and registered under the rules in force a year ago. The School of Law has refused to register forty students who satisfied the entrance requirements, but who had poor records of scholarship in other schools.

The following new appointees to the faculty begin their work this term: Professor Noel T. Dowling, formerly of the University of Minnesota Law School; Professor E. W. Patterson, formerly of the University of Iowa Law School; and Professor O. K. McMurray of the University of California, exchange professor for the year 1922-23.



The College of Law of the State University of Iowa has a registration of 222, approximately 10 per. cent. above its registration last year.

There have been two changes in the faculty, owing to the resignation of Herbert F. Goodrich and Edwin W. Patterson to become members of the law faculties of the University of Michigan and Columbia University, respectively. Their places have been filled by the election of Henry Craig Jones, Dean of the College of Law of the University of Illinois during the past year, and Millard F. Breckenridge, a member of the New York Bar. Mr. Jones has been appointed dean of the College of Law. Mr. Breckenridge is a graduate of the Yale Law School in 1918 and was a member of the editorial staff of the Yale Law Journal. He will be editor in charge of the Iowa Law Bulletin. Miss Helen S. Moylan has been appointed law librarian to succeed Elmer A. Wilcox, who remains a member of the faculty, but will hereafter devote his entire time to law teaching. Miss Moylan was for four years on the staff of the Harvard Law Library, was for one year secretary of the Harvard Law Review, and during the past two years has been at the College of Law of West Virginia University. The only change in curriculum has been the addition of a course in Brief Making.

The registration at the University of Michigan Law School, when the school opened, was about 12 per cent. greater than on the corresponding date last year. If this rush continues through the second semester and summer registration, the total attendance for the year will be about 550. The attendance last year was 498.

The faculty has been increased in size and greatly strengthened by the coming of Professor Herbert F. Goodrich, for eight years at the University of Iowa Law School and acting Dean during part of last year. Mr. Goodrich is a graduate of Carleton College (Minnesota) and of the Harvard Law School, and while in the latter institution was the editor of the Harvard Law Review. He has contributed numerous articles to the law reviews of the country and has won a leading place for himself among the younger generation of law teachers. His courses will be Conflict of Laws and Agency, with a brief treatment of Master and Servant, and he will have one of the sections in Torts.

For many years a course of lectures in the law of Admiralty has been offered, but no credit has been given for the course. This year, during the second semester, a course will be given based upon cases, running two hours a week. This will be in the hands of Professor Dickinson. The course in Taxation will be resumed, and probably there will be offered this year, and certainly for next year, a course which shall include a treatment of law relating to labor controversies and to illegal restraints affecting commerce, trade, and industry.

The library was greatly enriched during the year by the purchase of books abroad and by the securing of a valuable collection of state constitutional proceedings and records.

Professor Rudolf Stammler has contributed a series of three articles upon "The Modern Developments in Juristic Philosophy," which will be published during the year in the Michigan Law Review. These articles are being translated into English by Mr. John C. H. Wu, now the privileged student of Professor Stammler. Mr. Wu is a graduate of this school with the degree of J. D., in 1921. Professor Joseph H. Drake, of the faculty, will collaborate in the work of translation and editing.

Announcement has been made that a series of lectures on general jurisprudence, by Sir Paul Vinogradoff, Professor of Jurisprudence of Oxford University, is to be given in the fall of 1923. Professor Vinogradoff will also conduct an informal seminar during his stay here, which it is expected will continue for upward of a month. This course of lectures may be considered, in a sense, a memorial to the late Professor Willard T. Barbour. Mrs. Barbour was very largely instrumental in arranging for Professor Vinogradoff's coming to us for this work. While he is in this country Professor Vinogradoff will conduct

similar courses at the University of California.



Three new men have been added to the faculty of the Indiana University School of Law for 1922-23. Professor Hugh E. Willis, from the law faculty of the University of North Dakota, has charge of the courses in Contracts and Equity. Assistant Professor Walter E. Treanor has charge of the courses in Personal Property, Agency, and Corporations. Instructor Walter L. Moll has charge of the sections in Commercial Law.

Professor Paul V. McNutt will be absent during the year on other work connected with the University. In other respects the faculty remains as it was last year.

Professor Willis was for seven years professor of law in the University of Minnesota. For two years he was Dean and professor of law in the Southwestern University Law School, Los Angeles. After 1916-17, he was professor of law in the Law School of the University of North Dakota and its Dean of Law since 1920.

The Summer Session of the Indiana University School of Law ran as usual for twelve weeks. The enrollment was 72. One feature of the Summer Session was the development of courses intended to meet the needs of members of the active bar. One of these was a seminar course conducted by Mr. R. A. Daly on "How to Find the Law." The course was conducted in the Law Library, the class being divided into rather small sections, working under the immediate supervision of Mr. Daly. Every member of the class had a training that was equivalent to one hour a day for three weeks, some eighteen hours in all for each man.



On July 19th of this year the Law School of Leland Stanford, Jr., University suffered an irreparable loss in the death of its Dean, Charles Andrews Huston. Dean Huston was born and spent the early part of his life in Canada, coming to the United States to enter the University of Chicago, from which he received the A. B. degree in 1902 and the J. D. in 1906. In 1913 Harvard University Law School conferred upon him the degree of S. J. D. Appointed instructor in law at Stanford in 1906, he advanced rapidly, attaining the rank of professor in 1911, and being made Dean in 1916.

Professor Huston was a man of unusually broad intellectual interest and training. He had had teaching experience in English and Economics, as well as in Law, and was thoroughly trained in Political Science and Sociology. Indeed, he was well informed along all lines of human thought and activity, and it was his daily habit to spend some time in the University Library, keeping himself posted on current literature in all fields. He was a teacher of great skill and a scholar of first

rank. His unselfish devotion to the demands of his University and the community in which he lived unquestionably restricted his productive activity, but he nevertheless found time for the writing of several legal articles and in addition was the author of a very valuable book on the Enforcement of Decrees in Equity. A man in the prime of life, legal literature would undoubtedly have been enriched by further contributions from his pen, had he been spared. Indeed, at the time of his death he was actively engaged in writing a treatise on the Law of Principal and Agent.

His going, however, would not have been so keenly tragic if he had possessed these qualities alone, even though in high degree. Above them all was his warm personal interest in the individuals with whom he worked. Faculty and students alike came to look upon him with the genuine affection which one can only have for a friend who serves by sharing one's difficulties and troubles and by giving one kindly and helpful advice and assistance. It is this above all else for which Dean Huston will be remembered by the faculty, students, and alumni of this school.

Permanent arrangements for filling the deanship will be made at a later date. For the present year Professor M. R. Kirkwood had been appointed acting Dean. Dean Huston's course in Private Corporations is being given this fall by Professor Austin T. Wright, of the University of California.

During the past summer an unusually successful summer session was held, in which courses were offered by Professor Frederic C. Woodward, formerly Dean of this school, and now a member of the faculty of the University of Chicago Law School, Professor Ralph W. Aigler, of the University of Michigan, Professor Austin T. Wright, of the University of California, and Professors A. M. Cathcart, J. W. Bingham, C. B. Whittier, and C. G. Vernier, of our own staff. Professor Cathcart taught during the first half of the summer at the University of Chicago, returning here for the second half.



There have been the following changes in the faculty of the School of Law of Northwestern University:

Mr. George P. Costigan, Jr., for many years professor of law at Northwestern, has resigned his chair to accept a similar appointment in the University of California. Professor Costigan is well known as an author of many standard works in the legal category, and his many friends at Northwestern University will follow with interest his service in the West. Mr. Francis S. Philbrick, for some three years professor of law at Northwestern University School of Law, has resigned to accept an appointment on the law school staff at the University of Illinois. Judge Andrew Alexander Bruce has been

added to the faculty of the Northwestern University School of Law and began his work there this fall. Judge Bruce was, for a period of three years, Chief Justice of the Supreme Court of North Dakota, and had been previously Associate Justice on that bench for five years. He will be remembered in Illinois and Wisconsin for activity in the movements to enact child labor and "anti-sweatshop" laws, and among lawyers for vigorous work as judge and attorney and for various legal writings. Since 1919 he has been a professor of law at the University of Minnesota. He has long been a member of the National Conference on Uniform State Laws, of which General MacCheaney is now president. He was secretary to the justices of the Wisconsin Supreme Court, 1890-92; attorney for the state board of factory inspectors, Illinois, 1893-95; practiced law in Chicago up to 1898; assistant professor of law, University of Wisconsin, 1898-1902; and Dean of the College of Law of North Dakota, 1904-11. In 1911 he went to the Supreme Bench of North Dakota, where he served for eight years.

There have also been added to the faculty three new members, all of whom received their degrees at Northwestern University. The new lecturers, who are all well known in Chicago legal circles, are Edward Hiram Storms Martin, Ph. B., LL. B., Northwestern, 1899, to be lecturer on Contracts, a member of the firm of Martin, Martin & Barbour; John Maxey Zane, A. B., Litt. D., hon., Northwestern, 1917, and LL. D., lecturer on Anglo-American History, a member of the firm of Zane, Morse & Marshall; and Harris Carmen Lutkin, A. B., Northwestern, 1907, and LL. B., Northwestern, 1910, lecturer on Property, a member of the firm of Alden, Lathan & Young.

Among the summer faculty at the Law School of Northwestern University were the following Supreme Court justices: Judge Harold A. Ritz, of the Supreme Court of Appeals of West Virginia; Judge Floyd E. Thompson, of the Illinois Supreme Court; Judge Thomas P. Cochran, of the Supreme Court of South Carolina; and Judge John H. Dennison, of the Colorado Supreme Court.



The New York University Law School reports that there have been no changes of consequence in the curriculum. Owing to the increase in number of students in the entering class, the first year class has been divided into four divisions, instead of three, as formerly.

Several additions to the faculty have been made. The course in New Jersey Practice will be given this year by Judge Edwin Caffrey, Judge of the Court of Common Pleas of Essex County, N. J., and formerly pleading counsel of the Public Service Railway Company of the State of New Jersey.

Mr. John Gerdes has joined the faculty and will lecture upon Contracts. Mr. Gerdes has the degrees of M. A. and J. D. from New York University, and has been lecturing for ten years in the New York University School of Commerce. He is the president of the Alumni Federation of all the schools of New York University, and secretary of the Law School Alumni. He was a presidential elector in 1916, and is engaged in the general practice of law at 41 Park Row, New York City.

Mr. Herman A. Gray has been engaged as a law instructor and will lecture during the coming year on the subjects of Common-Law Pleading, Crimes, Persons, and Agency. Mr. Gray received the degree of A. B. cum laude from the College of the City of New York in 1916, the degree of A. M. from Columbia University in 1918, and the degree of J. D. from New York University in 1922. Since 1916 he has been an instructor in history and government in the College of the City of New York. Mr. Gray led his class throughout the three years course in New York University Law School.

Mr. Arthur H. Haaren has been appointed instructor in the law of Property. Mr. Haaren received the degrees of A. B. and LL. B. from Columbia University and was admitted to the bar of New York in 1916, and has since been engaged in general practice at 120 Broadway, New York City.

Mr. Joseph A. Barrett, who has been engaged as instructor in Equity for the coming year, obtained his A. B. at Boston College and his LL. B. at Fordham, and has been engaged in general practice in the city of New York since 1916.

A new course, entitled "The Law's Progress," is being given for the first time by Dean Sommer to the fourth year class.



The Fordham University Law School this year is continuing its morning sessions into the second year, having initiated them a year ago. The morning division, like the other two, was closed to registration almost a month before the opening of school.

A further important change was made this year, in advancing the afternoon class hours to 2 o'clock, instead of 4:15, as heretofore. This change applies, however, only to the present first year class, and so probably will not be fully operative in the school until two years hence. At that time the morning classes will be fully developed on a schedule running from 9:30 to 12:30, and the afternoon classes on a schedule from 2 to 5. The evening entering class has also been advanced to 6 o'clock, in the expectation that the earlier dismissal will substantially increase the study time of the evening students. The lengthening of the schedules in the three sessions will also provide the long-sought opportunity to introduce several new courses as electives, and a definite broadening of the curriculum is already in preparation.

The faculty of last year is still intact, and has been augmented by the following new members: Joseph F. Crater, Esq., of Columbia Law School; Joseph Lorenz, Esq., of Harvard Law School; Charles A. Buckley, Esq., of Fordham Law School; Reed B. Dawson, Esq., of Harvard Law School; Allen B. Flouton, Esq., of Columbia Law School; Lloyd M. Howell, Esq., of Columbia and New York Law Schools; Raymond J. Scully, Esq., of Harvard Law School; Frank H. Towsley, Esq., of Columbia Law School; and Ellis W. Leavenworth, Esq., of Columbia Law School. The active teaching faculty of the law school now numbers twenty-two professors and instructors.

The total registration for the present year is 1,242, and not less than 250 applicants had to be denied admission to the school solely because of the limitation of the number of entrants to the respective classes.



The Cornell University College of Law reports that Robert Sproule Stevens, A. B. and LL. B., Harvard, has been appointed Professor of Law in place of Charles Tracey Stagg, LL. B., Cornell, resigned. Professor Stagg has been on leave of absence since December, 1920, as counsel to the Governor of New York. He resigned to accept the office of Deputy Conservation Commissioner of the state of New York. Professor Stevens practiced law for several years in Buffalo, and has been connected with the College of Law of Cornell University as lecturer and assistant professor for the past three years.

Horace E. Whiteside, A. B., Chicago, LL. B., Cornell, has been appointed lecturer in Law and Secretary of the College of Law.

This addition of one member to the law faculty, and the fact that certain courses are now given in alternate years, has enabled the faculty of the College of Law to introduce several new courses and expand some courses already given. The new courses to be offered hereafter are as follows: Administrative Law and Public Officers, Municipal Corporations, Damages, Bankruptcy (heretofore given as a brief lecture course only), International Law, Taxation, and Restraints on Business and Industry.

A course called "Problems" is being installed for the first year class. The object of this course is the training of students in the use of books, analysis of facts, and logical thinking, by means of the preparation of briefs and the discussion of stated problems before members of the Faculty. The work in Procedure is also to be expanded to some extent by the discussion of procedure in the federal courts and in other ways. The senior course in Property, formerly given in 2 hours, is to be expanded into two 2-hour courses—one on Future Interests, and one on Titles to Real Estate.

By virtue of the introduction of these new courses, the elective system has been applied

to a limited extent. Heretofore all work in the College has been required. In the future the fundamental subjects will still be required, but about half of the work of the second and third years will be elective. As a result of these changes, 119 hours of work are offered, instead of 90 hours, as formerly.

Dean George G. Bogert was elected Secretary of the National Conference of Commissioners on Uniform State Laws at the meeting held in San Francisco in August.

Dean Bogert was a member of the summer faculty at the University of Chicago Law School during the first term, and conducted a course in Real Property.

Professor Lyman P. Wilson was a member of the summer faculty at the University of Chicago Law School during the second term, teaching Insurance.

The Uniform State Law for Aeronautics, which was drafted by Dean Bogert, was approved by the National Conference of Commissioners on Uniform State Laws at the recent San Francisco meeting.

Professor Charles K. Burdick has on the press a book entitled "The Law of the American Constitution," published by the G. P. Putnam Company. This book is expected to appear within a short time.

Professor Robert S. Stevens has been engaged by the National Conference of Commissioners on Uniform State Laws to complete the draft of a Uniform Incorporation Act.



The Brooklyn Law School of St. Lawrence University opened its scholastic year with 1,128 students in attendance.

Registration in the morning school as well as that of the afternoon and evening schools was closed on the opening day. Approximately 300 applicants for admission were turned away.

The morning school, which was instituted this year, opened with an entering class of 155 students.

Prof. Leo Rothschild, professor of Pleading and Practice, and Allen Brown Flouton, assistant professor of Corporations, have been added to the faculty.



No changes have been made this year in the faculty of the School of Law of the University of Missouri. Mr. P. A. Hogan, the law librarian, is on leave of absence this year, and is doing special work at Harvard University.



The College of Law, University of Nebraska, begins the year 1922-23 with a decreased enrollment, due to the increase of entrance requirements. Professor Robinson resigned, and to take his courses Mr. E. Merrick Dodd has come from practice in Boston as Assistant Professor. The only other faculty

change is the appointment of Dr. J. M. Mayhew as lecturer upon Medical Jurisprudence. Relations with the bar are being cemented by the issue of a quarterly, each issue of which is to deal exhaustively with some phase of Nebraska law.



The School of Law, University of Southern California, began instruction for the fall quarter on September 25th. The conditions of entrance had been by the Board of Trustees of the University changed so that two years of pre-legal college work would be required before entrance to the first year class. These new entrance requirements went into effect with the opening of this fall quarter.

The Summer Quarter closed on September 9th with the largest enrollment in the history of the school. Two hundred and twenty-three students were in attendance in the summer classes.

A course in Contracts in Restraint of Trade has been added to the curriculum for third year students and is being offered by Professor C. S. Tappan.

Upon the occasion of the inauguration of the new president of the University of Southern California, Dr. R. B. von KleinSmid, the honorary degree of Doctor of Laws was conferred upon Dean Frank M. Porter, in recognition of his many years of useful and efficient administration of the School of Law.

The Board of Trustees of the University has adopted the recommendation of Dean Porter that three years of general college work be required for entrance to the School of Law, and it has been decided that this requirement shall go into effect in September, 1924.

The plans of the University, as recently announced by President von KleinSmid, include an appropriation of \$300,000 for a building upon the campus to be the first unit of the Law Center. The plans for the Law Center, when finally carried out, will include a library building and study and club rooms for the use of alumni and the legal profession in general, as well as students of the school. The first unit will include class rooms, an assembly room, and the faculty and administrative offices of the school.



The requirement for entrance to the University of Minnesota Law School has been two years of college work. It was raised this year by requiring that the students maintain a rank one grade above the passing grade in their pre-legal work. In the entering class for 1921-22 there were 47 students below this grade, and only 10 of them made a satisfactory course in the first year in the law school.

The registration for the year 1922-23 is as follows:

First year.....	131
Second year.....	87
Third year.....	54

Total 272

The enrollment is 22 less than at the corresponding time last year. The decrease is in the first year class, and is more than accounted for by the higher entrance requirements.

A course in Legal Bibliography and Brief Making is added to the curriculum in the second year. Evidence, hitherto a second year subject, is now in the third year, where it will be taught concurrently with the work in Practice. Private Corporations is made a second year subject.

The faculty is increased by the appointment of Rex H. Kitts, as an instructor. Mr. Kitts received the degree of B. A. from Carleton College in 1917 and LL. B. from the University of Minnesota in 1922. He was note editor of the Minnesota Law Review 1921-22 and was elected to the Order of the Coif.

Professor Noel T. Dowling resigned to accept an appointment to the faculty of the Columbia University Law School. To fill the vacancy, Henry Rottschaefer was appointed Professor of Law. Professor Rottschaefer was graduated from Hoke College in 1909, from the University of Michigan Law School in 1915, and from the graduate course of Harvard Law School in 1916. He was an editor of the Michigan Law Review and is a member of the Order of the Coif. He has been engaged in practice in New York since 1916. His work is Constitutional Law, Taxation, and Public Utilities.

Professor A. A. Bruce resigned in September to accept an appointment to the faculty of the Northwestern University Law School. The position has not been filled. Part of his work is being carried by Sigurd Ueland, B. A., University of Minnesota, 1916, LL. B. cum laude, Harvard University, 1920. Mr. Ueland is engaged in the practice of law in Minneapolis.

An arrangement has been made with the Minnesota State Bar Association by which the Minnesota Law Review will be sent to all of its members. By this arrangement the Law Review will hereafter reach the majority of the lawyers in the state. Besides its regular features, it will carry a department devoted to the interests of the state and local bar associations.

The law school conducted a summer quarter. The teachers were Professors Ballantine, Osborne, Paige, and Dowling. As the school is conducted on a year basis, work in the summer school does not enable the student to accelerate his graduation. Credits can be used only to lighten the burden of the regular session, or to supplement the course required for the degree. The number of

students who attend for the latter purpose is increasing.

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The changes in the faculty of the University of Pennsylvania Law School are as follows:

Professor David W. Amram, after two years' leave of absence, returns to give the course in Pennsylvania Practice.

Mr. W. Foster Reeve, III, who graduated from the Law School cum laude in 1917, and has since that time been in active practice in Philadelphia, has been made an assistant professor and will devote his whole time to the Law School. He will this year conduct the courses in Contracts and second year Property.

Mr. William A. Schnader, who has for the past few years given the course in second year Property, has resigned.

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Mr. Robert Llewellyn Henry, Jr., is now a law lecturer at Oxford University, Oxford, England. Mr. Henry has a large acquaintance among law teachers in the United States. He was Professor of Law at Louisiana State University, 1907-11; Assistant Professor of Law, University of Illinois, 1911-12; Professor of Law and Dean of the College of Law, University of North Dakota, 1912-14; Professor of Law, University of California, summer, 1914; Professor of Law, State University of Iowa, 1914-16.

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The addition of Mr. William Gorham Rice, Jr., to the faculty of the Law School of the University of Wisconsin, is announced. Mr. Rice has been made an assistant professor and during the present semester is giving the courses on Legal Liabilities, Public Service Companies, and Persons. Mr. Rice is a graduate of the Harvard College and the Harvard Law School, holding the degrees of A. B., A. M., LL. B., and S. J. D. During the past year he has been secretary to Mr. Justice Brandeis of the United States Supreme Court.

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Mr. Harry K. Allen has been appointed Dean of Washburn College School of Law, to take the place of Mr. O. E. Carpenter, who has resigned his position here and is now with the Law School of the University of Oregon. Mr. Allen has been connected with the school for several years, teaching the courses in Property.

Judge T. F. Garver, formerly Judge of the Kansas Court of Appeals, is a new member of the faculty teaching the course in Municipal Corporations.

Mr. Oscar Raines, who has been connected with the school for several years as Judge

of the Practice Court, is the new instructor in the course in Trial Practice.

The Law School library has approximately 6,000 volumes, and regular additions are made each year.

The Law School is now housed in a fine new, modern, up-to-date law school building, which provides ample space for class rooms, court room, library, and offices for the professors.

The Law School offers, not only a four-year course, but also a five-year course, which is for students entering with high school credits only. Those entering the regular three-year law course must have had at least two years of college work in addition to their high school credits.



There are no changes on the faculty of the George Washington University Law School this year except that one full-time teacher has been added, Professor Alvin E. Evans, which makes a total of eight full-time teachers on the faculty. Professor Evans came to this University this fall from the University of Idaho, where he has taught for several years. He bears the degree of A. M., University of Nebraska, Ph. D., University of Michigan, and J. D., University of Michigan. He has practiced in Nebraska and Idaho, and has been Professor of Law at the University of Idaho since 1917.

Two new courses have been added to the curriculum; namely, Labor Law and Administrative Law, both of which will be given by Professor Spaulding.

Two summer terms were held during the summer of 1922, which terms, combined, made a session of thirteen weeks. 378 students were enrolled during the summer. The teaching was conducted by teachers who are on the faculty during the regular academic year.



The law building of Drake University College of Law was remodeled during vacation to make room for extensive additions to the law library, and the office of each member of the faculty was redecorated. The library now occupies the entire east half of the second floor of the law building. It is refurnished throughout, and contains a reading room sufficient to accommodate the entire student body, with stack room designed to take care of the expansion for years to come. The University made a very substantial additional allowance from general university funds, to be expended in making the law library as complete and adequate as any to be found.

The student body in the College of Law is slightly smaller this year than usual, due to the increased entrance requirements. Beginning with this fall term, the entrance requirements are two years of college work in a standard college or university.

With the exception of the change in the President of the University, there are no changes in the law faculty for this year. The faculty is as follows: Daniel P. Morehouse, Ph. D. University of California, Acting President of the University; Charles J. Hilkey, Ph. D. Columbia University, J. D. University of Michigan, Professor of Law and Dean of the College of Law; William H. McHenry, B. S. Iowa State College, LL. B. and LL. M. Drake University, Professor of Law; Arthur A. Morrow, A. B. Bethany College, J. D. University of Michigan, Professor of Law; Leland S. Forrest, A. B. University of Arkansas, J. D. University of Michigan, Professor of Law; Paul W. Jones, A. B. and LL. B. Northwestern University, Assistant Professor of Law; Eskil Carlson, LL. B. Drake University, LL. M. Yale University, Instructor in Law; Lawrence De Graft, Ph. B. University of Chicago, LL. B. and LL. M. Illinois College of Law, Associate Justice of the Supreme Court of Iowa, Instructor in Law; Hubert Utterback, A. B., LL. B. and LL. M. Drake University, Judge of District Court of Iowa, Instructor in Law.



Sessions of classes at Georgetown Law School commenced on Monday, October 2, 1922, with a total enrollment of 1205.

The registration at the Law School is in excess of that for the corresponding period of the last academic year, with 1,203 students registered in all classes at the opening of the last academic year as compared with 1,205 students for the current academic year. In addition to the requirement that applicants for admission to the Law School must possess, as a minimum, a diploma from a four year accredited high school, with at least fifteen academic credits, the faculty required students who registered for the first time for the current academic year to furnish evidence of high scholarship in connection with their academic work, to the end that there would be no doubt as to the applicant's qualifications for the study of law.

With the establishment of the second year morning class, the Law School offers to students who have their whole time for study courses in first and second year subjects. It is planned to institute morning classes for the third year class next year when a complete three-year curriculum will be available in the morning hours. The morning course, which is parallel to the course in the late afternoon, is conducted from 9 to 12, each morning.

Dr. Frederick Joseph De Sloovere and Dr. William Jennings Price have been appointed to the faculty, as full-time professors. Dr. De Sloovere received the degrees of A. B., LL. B., and S. J. D. from Harvard University, and is a former Professor of Law at the Catholic University. Dr. Price received from Center College the degrees of M. A.,

LL. B., and LL. D., formerly Professor of Law at Center College and Envoy Extraordinary and Minister Plenipotentiary of the United States to Panama.

With the requirement of one year of college, in addition to graduation from a four-year academic high school, going into effect for the next academic year, the Law School inaugurated at the beginning of the current academic year a pre-legal course. Day classes for pre-legal students are conducted in the Academic Department of the University. In order to afford those students who are compelled to earn their livelihood while pursuing their studies an opportunity to meet the requirement of one year of college work, to be exacted at the beginning of the next academic year, a pre-legal course is conducted at the Law School each afternoon at 5:10 o'clock. The law faculty concluded that the student pursuing a one-year or a two-year pre-legal course should not take merely the freshman or sophomore courses leading to the baccalaureate degree, but that he should pursue a course planned with his special needs in view, namely, a course of instruction which will serve as a foundation for the study of law.



De Paul University Law School, Chicago, Ill., reports the largest enrollment in its history. All classes, both in day and evening divisions, are well filled, while a hearty spirit of enthusiasm and co-operation prevails throughout the student body and gives promise of a successful year. Four members have been added to the Law School staff during the past year.

Mr. Curt G. Heinfeldt has undertaken the course in Bailments and Carriers in the day division. Mr. Heinfeldt holds the degrees of Bachelor of Arts and Bachelor of Laws from Harvard University and has spent several years in the practice of carrier law.

Mr. Josiah Babcock, who holds the degrees of Master of Arts from Knox College and Bachelor of Laws from Harvard University, came to the Law School from University of North Dakota. Mr. Babcock has also spent several years in practice and a year in the teaching of commerce work in the College of Commerce of Marquette University. Mr. Babcock will teach the law of Bills and Notes and of Private Corporations.

Mr. Frank Partridge, who graduated from the Illinois College of Law before it became the De Paul University Law School, and has since become a specialist in the law of Real Property, is now teaching the law of Mortgages in the evening division.

Mr. Henry B. Evans a graduate of the Law School of last June has become a member of the full-time faculty of the Law School. Prior to his graduation Mr. Evans was a member of the United States Board of Grain

Review. Mr. Evans was honor man in his class throughout his law school course and is the first man in several years to be chosen as an instructor from among the graduates fresh from the school.

The Law School has made an arrangement with the Legal Aid Society of Chicago to have the members of the senior class work in co-operation with the regularly licensed attorneys of the Legal Aid Society. The school in this way gives its graduates the advantages of a legal clinic.



The following instructors have been added to the faculty of the School of Law of the Northeastern University:

Boston—Arthur D. Hill, formerly Corporation Counsel in the city of Boston, A. B. Harvard College, and LL. B. cum laude Harvard Law School, 1894, associated with Hill, Barlow & Homans, lecturer in Legal Ethics.

Worcester—Loue E. Stockwell, Ph. B. Brown University, 1919, and LL. B. Harvard Law School, 1922, instructor in Criminal Law.

Springfield—Robert W. Bodfish, A. B. cum laude Clark College, 1917, and LL. B. Harvard Law School, 1922, instructor in Partnership. Ralph Stevens Spooner, A. B. Harvard College, 1916, and LL. B. Harvard Law School, 1918, instructor in Property I. Gurdon W. Gordon, A. B. Williams, 1897, and LL. B. Boston University, 1900, instructor in Constitutional Law. William W. Yerrall, A. B. Amherst, 1918, and LL. B. Harvard Law School, 1921, instructor in Bills and Notes.

Providence—Sidney Clifford, A. B. Brown University, 1915, and LL. B. Harvard Law School, 1920, instructor in Wills and Property II. George A. White, A. B. Williams College, 1919, and LL. B. Harvard Law School, 1922, instructor in Corporations.

The following significant changes are being made, so far as the curriculum of the school is concerned:

A course in the Case Method of Study is to be given by Asa S. Allen, Associate Dean, for ten weeks, and started the first time this September. The object of the course is to give the men thorough instruction in how to analyze cases and to get the most economical use out of their time.

Another change has also been made in the curriculum, Common Law Pleading having been shifted to the fourth year, and will be correlated with the Massachusetts Practice course, so as to get the maximum value out of both courses. The changing of Common Law Pleading in this way will be experimental, but it is expected that the experiment will prove successful.

As a supplementary method of admission, the Thorndike Test for High School Graduates, for use in admitting students to colleges and professional schools, has been tried for the first time. Results of the test, when

correlated with the previous accomplishments of the students in school, and the various positions which they held, and the various occupations in which they are engaged, are high. At the close of the year a study will be made of the correlations with actual law school studies and it is expected that some very interesting deductions will result.

So far as enrollment is concerned there has been a 30 per cent. increase in the enrollment in the whole school. This increase in enrollment is all the more remarkable because of a marked increase of admission requirements this year.

Last year Professor Austin W. Scott, of the Harvard University Law School, completed a survey of the Northeastern University School of Law, making concrete recommendations with regard to the operation of the school. These recommendations of Professor Scott have been adopted and modifications made in the program as suggested.

In particular emphasis is being given to the Law School library, an equivalent of well over 5,000 volumes having been added in the last four months.

As to the Springfield Division of Northeastern University School of Law, this is the fourth year of the school in Springfield, so that this year for the first time the work of the entire four-year course is being offered. There is a law faculty of fifteen, and an enrollment as follows:

First year.....	38
Second year.....	16
Third year.....	12
Fourth year.....	7



The College of Law, University of Florida, has entered upon the most successful year of its history, 190 students being enrolled to date. It offers a standard three-year course, ninety semester hours being required for graduation. Only one change has occurred in the faculty. Dr. John H. Moore has resigned to accept a position on the law faculty of Mercer University. His place has been filled by Richmond A. Rasco, A. M., LL. B., formerly Dean of the College of Law of Stetson University. Prof. Rasco has been assigned the same subjects that Dr. Moore taught.



The new members of the faculty of the St. Paul College of Law are as follows: Charles Bunn, Wills and Administration; Pierce Butler, Jr., Domestic Relations; William T. Farley, Agency; John P. Galbraith, Bankruptcy (a new course); John B. Sanborn, Insurance (a new course). In addition, C. W. Bunn, as lecturer, will give a course on Jurisdiction and Practice in the Courts of the United States, but this course will not be given until next year. Inasmuch as two years ago the course was lengthened from three to four years, there is no fourth-year

or graduating class this year, and the fourth-year course will not be given until next year.

With ample quarters the library is being increased, and it is hoped to make further increases in the near future.



The School of Law of the University of Colorado sends in the following report:

Professor Floyd R. Mechem, of the University of Chicago Law School, was one of the instructors for the summer school. He gave the course on Private Corporations, which was greatly appreciated by a large class.

Mr. Walter Cochrane, a member of the junior law class, was appointed acting registrar of the University for one year, owing to the sickness of the regular registrar.

Mr. Roy Elam of the senior class was elected president of the combined Laws, for the school year 1922-23.

There were 70 students enrolled for the summer quarter of the law school. The faculty consisted of Dean Fleming and Professors Mechem, Folsom, Hadley, and Arthur. As this was only the fourth summer quarter for the law school, the attendance was very gratifying.

At the annual meeting of the Colorado Bar Association, held in Colorado Springs in August, Professor H. S. Hadley was elected Vice President and Professor William R. Arthur was appointed a member of the Committee on Legal Education for the ensuing year.

Professor Bryant Smith requested not to be assigned work for the summer quarter, but chose rather to travel by automobile for rest and recreation, through Colorado, Wyoming, and especially the National Parks of the region.



There has been one change in the law faculty of the University of Montana this year. Mr. Robert E. Mathews, A. B. Yale, J. D. Chicago, is taking the place of Mr. Simes, who is now a Professor of Law in the Ohio State University.

The School of Law shows a slight increase in enrollment over the preceding year. Only one new course has been added to the curriculum, namely, that in Legal Ethics, two hours a week for one quarter.

The school is expecting before the close of the year to occupy new quarters. On the completion of the new library building, the old library building of the University will be remodeled for the purposes of the Law School.



The new members of the faculty of the College of Law of Tulane University, New Orleans, are as follows:

Mr. Albert B. Cox, Associate Professor of Law. Mr. Cox is a graduate of Leland Stanford, Jr., University Law School, and has been in practice the past year in San Fran-

cisco. This year he is giving Agency, Criminal Law, Constitutional Law, and Public Service Companies.

Mr. Justin V. Wolff. Mr. Wolff graduated cum laude at Harvard last spring, 1922, and has begun practice in New Orleans. He is teaching the course in Common-Law Contracts.

Mr. Sumter D. Marks, Jr. Mr. Marks is a graduate of the Tulane University College of Law, and is in practice in New Orleans. He is giving the course on Insurance, which was formerly given by Mr. Walter J. Suthon, Jr. Mr. Suthon is giving a new course on the Civil Code of Louisiana that has been added to the curriculum.



The College of Law of the University of Kentucky has made no change in the course of study for this year.

Mr. Harland J. Scarborough, of Youngstown, Ohio, has been made a member of the law faculty of this school. He graduated from Antioch College, Ohio, with the degree of A. B. and from Michigan University with the degree of LL. B. He was principal and superintendent of high school work for ten years before entering upon his law work. Upon completion of his law course, he became a member of the law firm of Nicholson, Warnock & Scarborough, of Youngstown, Ohio, and as such was actively engaged in the law practice for three years, and at the same time taught law in The Youngstown Association School of Law. He now enters upon his professional career as a law teacher.

Valuable additions were made to the law library during the past summer, and the members of the bar of Kentucky are invited to visit and use the library in the preparation of their cases for court when they are not sufficiently equipped in their home libraries. The services of the librarian are also offered in connection with such work.

The Kentucky Law Journal, published by the law school and which is the official organ of the Kentucky State Bar Association, is being supplied with material for publication, the greater part of which is primarily for the benefit of the legal profession of the state, but of interest to the profession at large.

Plans have been made for a general examination of each senior law student before graduation upon each subject of his course. This will have a tendency to cause the student to keep his note book with great care, and not to lose interest in the subjects as they are passed and credit given for them; besides, he is, when graduated, better prepared for state bar examinations. This plan will be carried out satisfactorily this year.



The School of Law of the University of Alabama began its fiftieth year's work September 6th. This is the first year that the

full three years of the new curriculum have been in operation, and the increased registration over the corresponding period of last year is nearly the number of the present third year class, which is 30.

In the last two years the library of the school has been materially strengthened. In 1924 one year of college work will be made a prerequisite for entering the Law School as a candidate for a degree, and in 1926 two years of college work will be required.

The addition of the third year to the curriculum necessitated the addition of two members to the faculty, and the University was fortunate in securing Professor Myron McLaren, A. B., LL. B., Michigan, and Professor W. D. Rollison, LL. B., Indiana, to fill these positions. Two other new men are teaching in the Law School this year. Professor J. V. Masters, M. A., LL. B., Indiana, has taken over the work of Professor Chilton, who resigned to re-enter the practice, and Professor J. E. Livingston, of the Tuscaloosa County, Alabama, Bar, an old University of Alabama graduate, has taken the work of Professor McCoy, who resigned to accept a position in the School of Law in the University of South Dakota.



The School of Law of the University of Arizona starts the academic year of 1922-23, the eighth year of its existence, with an enrollment of 70 students, the largest registration it has thus far had.

The enrollment of students in the various classes and groups is approximately as follows: First year, 23; second year, 15; third year, 10; special, 22.

The faculty for the year consists of Samuel M. Fegly, Director; Professors Andrew W. Anderson, Leonard J. Curtis, William B. Swinford; Hon. Kirk T. Moore. The changes in the faculty to be noted are the appointment of Mr. Moore to fill the vacancy caused by the withdrawal of Mr. A. I. Winsett, both Mr. Winsett and Mr. Moore being members of the local bar, and the appointment of Professor Swinford to take the place of Professor Robert M. Davis for the present academic year, Professor Davis having been granted a year's leave of absence, which he is spending at the University of California as a member of the Law Faculty of that institution.

Under the efficient direction of Professor Leonard J. Curtis, special attention is being given to the development of the Practice Court and of the other procedural courses of study, with the result that these courses promise to be of great practical value to the students.

The Law Library has grown steadily, and now contains reports which, if replaced on the shelves by the regular state, federal, and English reports, would produce a library of over 7,000 volumes.

The Davis Law Club, an organization of the law students, starts its second year of work with no vacancies in its membership roll, and an increased interest on the part of its members in the work and activities of the club.

The School of Law has had the pleasant and unique experience of having a member of its faculty, Hon. Kirk T. Moore, called to fill for the unexpired portion of the term the vacancy in the superior court judiciary caused by the resignation of Hon. Samuel L. Pattee from the judgeship. The place on the law faculty thus vacated temporarily by Judge Moore will be filled by Mr. E. B. Frawley, of the local bar.



Mr. Phillip R. Mechem, son of Floyd R. Mechem, who was graduated at the spring commencement, has been elected Professor of Law, at the University of Idaho.

In honor of Professor Floyd R. Mechem, the combined law classes gave a banquet July 28, 1922, at which speakers and representatives from six neighboring law schools were present. Professor Mechem delivered a very instructive address on the "Duties of the Lawyer."

The summer school of the University of Colorado is now the fifth in size in the United States, and, owing to the large number of students completing work at the close of the summer quarter, it has been found necessary to hold commencement exercises at the close of such quarters. September 2, 1922, was fall commencement, at which time seven law students were among those graduated.

The Fleming Club, which was named after Dean John D. Fleming, and which has existed for some time as a social organization, is preparing to petition one of the leading national legal fraternities. The club is composed of about fifteen of the leading law students. There are at present but two chapters of national legal fraternities in the school.



There have been no changes in the faculty of the Jefferson School of Law, Louisville, Ky. Judge Thomas R. Gordon is Dean, and Mr. Shackelford Miller, Jr., Secretary. Special attention is being given this year to Moot Court work and instruction in the use of Digests, Cyc., etc. The present enrollment is the largest in the history of the school. The publication of a school paper, known as the "Jefferson Recorder," was begun last year. Mr. Guy H. Sowards is editor, and Mr. W. A. Armstrong, manager. They will be assisted by an associate editor and manager, to be chosen from the junior class. Two women received degrees last May and are now licensed attorneys in the city. They are Miss Edith M. Cole and Miss Grace R. Bird.

Southwestern University School of Law, Los Angeles, Cal., opened this year on September 20th, with some increase of students over last year. The faculty has been added to by the addition of Mr. E. B. Evans, formerly Dean of the Drake University Law School, who is now residing in California.

The only addition to the curriculum was a course in the California Constitution, being a survey of the Constitution of this state and the study of its construction and interpretation by selected California cases. This course was added to the curriculum, due to the substantial number of students enrolled from this state desiring such instruction.



Owing to the increased attendance and large additions to the library, the School of Law of the University of Denver has outgrown its present quarters. The trustees of the University have secured all of the third floor and a portion of the second floor of the old High School Building, now administered in connection with the Club Building, at 1731 Arapahoe street. The school will be removed to these quarters about the 1st of December, 1922.

Steps are being taken to perfect a closer co-operation between the faculty and alumni, looking forward to the erection in the near future of a new building for the Law School somewhere in the vicinity of the Civic Center of Denver. Some subscriptions have already been made and paid in, but the selection of a definite site and a plan of the building, is being deferred until after the arrival here of the Chancellor-elect of the University, Dr. Harper, of Boston, who will assume his duties here about the 15th of November. During the coming year a campaign to raise \$2,500,000 for new buildings and additional endowment for the University of Denver and its affiliated schools will be inaugurated.

Robert Elmer More, A. B. Dartmouth College, LL. B. Harvard University, has been added to the faculty as an instructor. The subjects assigned to him are Suretyship and Mortgages new courses in the school.

A course in Extraordinary Legal Remedies has been substituted for the course in Bankruptcy in the regular curriculum, with Professor W. W. Grant, Jr., in charge.

Judge John H. Denison, who teaches the course in Common-Law Pleading, and is a Justice of the Supreme Court, taught a course on Common Law, Equity, and Code Pleading at Northwestern University this year during their summer session.

The first Summer Session of the Denver Law School, had an enrollment of 33 this past summer.

Beginning with the class entering in the fall of 1923, two years of college work will

be required of all candidates for the law degree.

For the second year, Moot Court, attendance at which is required of all students during the three years course, has met in one of the District Court rooms, on account of the large enrollment.

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The faculty of the School of Law of the University of South Carolina, consisting of five professors, remains unchanged from last year. In spite of the lengthening of the course to three years, which took place in September, 1921, the student body continues to increase, and this year's enrollment is the largest in the history of the school.

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The Creighton University College of Law opened on September 20th, and enjoys the largest enrollment of its history, there being 186 students in both day and night school.

The two-year college requirement went into effect last January, but the large enrollment in the higher classes compensated for a smaller freshman class.

The law library received several large donations during the past year and now numbers 24,000 volumes. One year's occupation and use of the new law building has shown that it was admirably planned for law classes, and it has received repeated commendation from both students and visitors.

The faculty has been augmented by the addition of the following professors: Merton L. Corey, A. B., LL. B. Michigan, Corporations; Edward F. Leary, A. B., LL. B. Creighton, Bankruptcy; Harvey M. Johnson, A. B. Nebraska, LL. B. Minnesota, Property; Amos E. Henley, A. B., LL. B. Creighton, Evidence.

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The entrance requirements for the Washington and Lee University Law School has been increased and one year of college work is now required. Two years of college work will be required for entrance to the Law School next year. Mr. Thomas X. Parsons has been appointed a member of the law faculty. Mr. Parsons is a graduate of Virginia Military Institute (B. S., LL. B.) and the Law School of Washington and Lee University (1921).

Mr. James B. Noell, Jr., has resigned to resume the practice of law in New York City.

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The Law School of the University of South Dakota has an initial enrollment of 83 students.

Assistant Professors Whitley P. McCoy and Raymond J. Heilman take the places of Wesley A. Sturges and Ray A. Brown. Mr. Brown is taking a year postgraduate study at Harvard Law School, and Mr. Sturges is

taking a year of postgraduate work at the Yale Law School. During the summer, Mr. Sturges taught Municipal Corporations at the Yale Summer School.

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The University of Louisville Law Department announces that the full three-year course is being taught this year for the first time. The new courses which have been added to the curriculum are Conflict of Laws, Bankruptcy, Trusts, Municipal Corporations, and Taxation. New professors are Mr. Joseph D. Peeler, who is teaching Conflict of Laws and Trusts, and Mr. Harris W. Coleman, who is teaching Pleading. Mr. Peeler graduated from Harvard Law School in 1920, and Mr. Coleman graduated from University of Virginia Law School.

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The enrollment in the Department of Law of the University of Buffalo is the largest in the history of the Law College. Two substitute instructors have been appointed, namely, Mr. Henry W. Willis, in place of Mr. Bradley Goodyear, and Mr. Morey C. Bartholomew, who takes the place of Mr. George D. Crofts. Mr. Willis teaches Negotiable Instruments, and Mr. Bartholomew gives the course on Quasi Contracts.

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Two new members have been added to the law faculty of the Catholic University of America at Washington, Mr. John W. Curran, a graduate of Northwestern University Law School, and Mr. Raymond L. Carmody, a graduate of Holy Cross College and of Boston University Law School. Dr. Frederick J. de Sloovere, for many years a member of the faculty resigned at the end of the school year, and is now a member of the faculty of the Georgetown Law School.

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The Hartford College of Law, Hartford, Conn., entered upon its second year this fall. The following are new members of the faculty: Mr. Birdsey E. Case, LL. B., Yale University; Mr. J. Harold Williams, B. A., LL. B. Yale University; Arthur E. Howard, Jr., B. A., LL. B. Yale University; Mr. John P. Harbison, B. A., LL. B. Yale University; Mr. Francis E. Jones, B. A., LL. B. Yale University; and Mr. Ufa E. Guthrie, A. B. University of Mississippi, LL. B. Yale University. Mr. George W. Lillard, LL. B., Georgetown University Law School, is Secretary of the faculty.

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The Cincinnati Law School, College of Law of the University of Cincinnati, began its ninetieth year September 25, 1922, with 61 students.

The standard for admission, requiring four years in an approved high school and at least

two years in some approved college or university, went into effect for the first time this year, resulting in a decreased attendance in the first year.

Professor Carl C. Wheaton has left the school, and Judge John W. Peck, of the United States District Court, has been appointed professor of Federal Procedure, and Judge Thomas H. Darby, of the Common Pleas Court, has been appointed professor of Criminal Law. The faculty now consists of four full-time men and eight part-time men.



The Washington College of Law opened September 27th, in the college halls at 1315 K street N. W., Washington, D. C. Short addresses were given by Professors Harry A. Hegarty, Paca Oberlin, Edwin A. Mooers, Lucian H. Vandoren, George Kearney, James B. Flynn, William Clark Taylor, Elizabeth C. Harris, and Judge Mary O'Toole. The speakers were introduced by Dean Emma M. Gillett. The Honorary Dean, Mrs. Ellen S. Mussey, assisted by Professor Sarah T. Andrew, received the guests. The class of 1923 served refreshments. A social hour, with dancing, followed.

The college has fitted up an additional room for the junior class. This room is on the ground floor, easily accessible, and lessens the confusion of passing and repassing in the halls.

Dr. Charles W. Needham, who was absent last year has returned and resumed his class in cases on Constitutional Law. Prof. Edwin A. Mooers, LL. B., in addition to his other work, will teach Agency to the junior class and Professional Ethics to the senior class. Prof. Mooers will use the problem method in teaching Professional Ethics. He developed a course in legal problems last year, which was very popular. Prof. James P. Schick has resigned, and his classes are taken by Professor Lucian H. Vandoren and Judge Kathryn Sellers. Mr. Louis F. Post, for eight years Assistant Secretary of Labor, gave four lectures on Laws Relating to Labor.

The senior class has the largest registration in the history of the college.

The Patent Law class has begun work under the direction of Professors William L. Symons and Harry H. Semmes. Both of these professors have recently published books that are being accepted as text-books in various schools. Messrs. Alva D. Adams and Lester G. Budlong, who received their degrees as Master of Patent Law with the class of 1922, announce that they will offer to the Patent class of the Washington College of Law for the school year 1922-23, a copy of Prof. William L. Symons "Patents for Designs" to the person attaining the highest scholastic standing in his Patent and Trade-Mark class. They will also offer to the student who presents the best-prepared case in practice court with Professor Harry H. Semmes a copy of Semmes' Patent Procedure. In

order to qualify for this latter prize, the student must submit a brief in complete legal form.

The Practice Court has the same judges as last year. William G. Jones, LL. M., will be clerk of the court assisted by Laura M. Berrien, LL. B., and Helen Epstein, LL. B.



What has heretofore been the Department of Law of the University of Texas, has, by action of the Board of Regents, been raised to the School of Law, with all of the functions of a school. Its 1922-23 session opened on September 25th. The registration is now 298. This is somewhat less than at the same time in the session of 1921-22, because the requirement that candidates for law degrees must at the time of admission have at least junior standing in the College of Arts, has been strictly enforced.

Beginning with the current session, the Law School has gone upon a semester basis; the first semester beginning September 25th and ending February 3d, and the second semester beginning on February 5th and ending on June 6th. This has necessitated changes in the curriculum, there being some courses that run throughout the year, and some that run throughout the semester only. Further work is being done on the curriculum to put it as far as possible upon a permanent basis.

The requirements for the degree remain the same, to wit, not less than 90 weeks' attendance and credit for 1,170 hours of completed work. The 90 weeks requirement can be made by attendance for all of three long sessions, or by attendance for at least two long sessions and three summer sessions of not less than ten weeks each. The passing grade has been made 60, but no student can count toward his degree more than 135 hours of work rated from 60 to 69, inclusive, in any long session, or more than 45 hours of the same grade in any summer session.

The library contains more than 23,000 volumes, which includes practically all reports of English-speaking courts. Over 4,000 volumes were added last year.

There are ten professors in the faculty, nine in attendance on full time, one, Professor Butte, heretofore on the regular teaching staff, having a year's leave of absence, which he is spending at the Yale School of Law investigating questions in Conflict of Laws, Comparative Law, and kindred subjects.

Two new professors, Dr. Charles Grove Haines and Mr. Charles Tilford McCormick, have been added. Professor Haines, heretofore head of the School of Government in the University of Texas, was transferred to the Law Faculty and has charge of the courses in Public Law. Professor Haines received his degree as Doctor of Philosophy at Columbia in 1909, majoring in Constitutional Law, his minors being International Law and Administrative Law. While connected

with the School of Government, he has taught International Law in the Law School. His full time is now devoted to the Law School. Professor Haines has published some books dealing with Public Law and with Government, among the more notable being "The Conflict over Judicial Powers in the United States to 1870," published in 1909, and "The American Doctrine of Judicial Supremacy," published in 1914. He is now engaged in the preparation of a book on the "Effect of Extra-Legal Influence upon the Supreme Court of the United States." He has been a frequent contributor to the law reviews.

Professor McCormick begins his work as a teacher with the current session. Professor McCormick took his Bachelor of Arts degree at the University of Texas in 1909, his Bachelor of Law "cum laude" in Harvard Law School in 1912. Since his graduation from Harvard he has been engaged in the practice of law at Dallas, Texas, with the firm of Etheridge, McCormick & Bromberg, one of the leading law firms of the state. During 1917-18, he was an officer in the United States Army. He was discharged, with the rank of Captain. He has charge of the courses in Equity, Commercial Paper, and Common-Law Pleading.

The Summer School now extends to 12 weeks, being divided into two terms of 6 weeks each. Degrees may be conferred at the close of the Summer School. The attendance at the Summer School of 1922 was 110 the first term and 91 the second term.

The Texas Law Review has been founded. The first issue will be out in November. The Review is endowed; there being now on hand \$25,000, the income from which is to be used for publishing the Review. The endowment has been obtained by subscription to shares of stock of the value of \$50 each; such subscriptions coming from members of the bar of Texas, most of them alumni of the school. It is proposed to continue the campaign for the endowment until it totals a minimum of \$50,000. The enterprise is in process of incorporation. The Board of Editors consists of Professor Townes, Hildebrand, Haines, and Potts, from the Law School, and of leading practitioners from over the state. Professor Potts is chairman of the board. The student editors were taken from the second and third year classes and were selected upon the basis of work done by them in the Law School. In addition to those who have contributed to the endowment of the Review, and who are each entitled by such contribution to perpetual subscription to the Review, there is a large number of annual subscribers. The review will be conducted largely under the supervision of the Law School, but as an enterprise of the bar of Texas.



The following changes have been made in the faculty of the Law School of St. Ignace

tius College, San Francisco, Cal.: Father John J. Gearon, S. J., has charge of Public Speaking, Father Hubert J. Flynn, S. J., teaches Moral Ethics, and Mr. A. J. Stebenne will give the course on Legal Ethics. Father Joseph Riordan, S. J., has resigned from the faculty.



The faculty of Marquette Law School has been augmented by Daniel Brooks, LL. B., who is teaching Real Property. Otherwise the faculty is the same.

Two thousand volumes have been added to the library. The plans for the new law building are now complete and in the hands of the Business Manager of the University. It is hoped the new building will get under way this year.

Mr. Daly, of the West Publishing Company, delivered a series of lectures the week of October 9th to 14th on the use of law books. As usual, his lectures were well attended.



The Dickinson School of Law reports the addition to its faculty of Mr. James B. Gibson, who takes the place of Mr. Douglass D. Storey, who has resigned. Mr. Gibson is teaching the subjects of Corporations, Bills and Notes, and Evidence. No important changes have been made in the methods of the school, but efforts are being made to make the standards in the school higher and the work harder. There are 251 students enrolled.



The Lamar School of Law of Emory University opened on September 29th. Sixty-four students have enrolled for the year. There are twenty-six men in the first year class, twenty-one in the second year class, and seventeen in the third year, or senior, class. Classes are much more nearly the same size than last year; the two upper classes both being larger than in any previous year, and the first-year class being smaller by five or six registrants than was the case last year, but being considerably larger than any other entering class. Several causes contributed to cutting down the entering class this year. The first and foremost is probably the boll weevil; secondly, the fact that crops generally in this section are not very good this year; thirdly, some eight or ten men were refused entrance this year, who would have been received in previous years. The caliber of the entering class is easily the best the school has ever had, from the standpoint of preliminary preparation and native ability, so that the prospects for a good year are very promising.

The school loses two of its part-time professors: Harold Hirsch, who has been professor of Equity since the beginning of the school, in 1916, has been forced to resign, due to pressure of business in his office. R. H. Freeman has resigned from the faculty as professor of Real Property, and has given

up his office practice, to go to the University of Maryland Law School as a full-time professor.

E. S. Gambrell, a graduate of Harvard Law School, has been added to the faculty, and will teach Bills and Notes.



The School of Law, Temple University, opened September 18, 1922, at its new building, 1521 Locust street, Philadelphia, which has been taken on a long lease and expressly fitted for the use of the Law School. During the summer, the library of the school has been increased by the purchase of about 1,000 volumes of standard reports, and the library is now made up entirely of standard reports, encyclopedias, and text-books well adapted to the use of law students. The reports of the principal states, such as Massachusetts, New York, New Jersey, Pennsylvania, Ohio, Indiana, and Illinois, are all included in the library, as well as the reports of the United States courts.

The faculty has been enlarged, and two new members added. One of them, Robert M. Boyle, Esq., is instructor in the Law of Decedents' Estates. Mr. Boyle has been for years solicitor to the Register of Wills of Philadelphia county, Pennsylvania, and is a well-known expert on Probate Law, consulted extensively throughout the eastern part of Pennsylvania.

The instructorship in the Law of Insurance has been assigned to Malcolm Adam, Esq., Registrar and Assistant Supervisor of Claims of the Penn Mutual Life Insurance Company of Philadelphia. Mr. Adam is a former student and graduate of the school, and is versed in the Law of Insurance.

During the last school year, Hon. Charles E. Bartlett, Professor of the Law of Torts, was elevated by Governor Sproul from the bench of the Municipal Court of Philadelphia to the position of Associate Judge of Court of Common Pleas No. 1, where by reason of the resignation of President Judge Patterson he has now become senior Associate Judge.

James W. Tracey, Jr., Esq., Professor of Common-Law Pleading and Criminal Law, has been appointed an Assistant District Attorney under District Attorney S. P. Rotan, of Philadelphia.



The University of Idaho Law School reports that Dr. A. E. Evans resigned in June to accept a position with the George Washington Law School, Washington, D. C. Mr. Phillip R. Meacham has been appointed Dr. Evans' successor, and will, in a large measure, teach the subjects heretofore taught by Dr. Evans.

Mr. Meacham will also give a course in Quasi Contracts. This is the first time this course has been given in the Law School.



The John Marshall Law School, Chicago, Ill., opened this fall to an increased attend-

ance in all classes. New members of the faculty are: Edwin C. Austin, A. B. University of Wisconsin, LL. B. Northwestern University; Herbert Bebb, A. B. University of Illinois, LL. B. University of Chicago; William W. Case, A. B., LL. B. Harvard University; Harold G. Townsend, A. B. Beloit, LL. B. Harvard; Paul L. Sayre, A. B. Harvard, LL. B. Northwestern University.



Considering that this is only the third school year of the Mayo College of Law, the enrollment for the freshman class is very encouraging. At the close of the last school year Charles Hudson, A. M., LL. B., of Harvard, was elected Dean. Sherman Steele, formerly an instructor in law in Notre Dame University and St. Louis University, was added to the faculty last February. Edgar B. Elder, LL. M., attorney for the Public Service Company of Northern Illinois, another new member of the faculty, is in charge of the class in Torts.



The Loyola University School of Law, New Orleans, opened its ninth session on September 21st, with an enrollment exceeding two hundred.

Hon. Louis H. Burns, United States District Attorney, has been appointed lecturer on the subject of Federal Procedure. The subject of International Law and United States Foreign Relations is taught by Mr. Lionel J. Bourgeois. Mr. Stuart Barnett has been recently appointed the lecturer on Carriers and Interstate Commerce. Mr. James Wilkinson will lecture to the postgraduates on the Law of Riparian Rights in Louisiana. Hon. Richard A. Dowling, Judge of the Criminal District Court, is lecturer this year on Statutory Construction. Heretofore he lectured on a part of the Civil Code of Louisiana, but this latter subject is now handled by Mr. Wm. C. Orchard.

The Pre-Legal Course, which makes the law course four years, instead of three, has now become a permanent department of the Law School, and to this course has been added the subjects of Political Economy and Sociology. Lectures on the latter subject are delivered by Rev. M. Kenny, S. J., Regent of the Law School.



Many changes both in faculty, personnel, and the curriculum have been made in the University of Wyoming Law School this year. While this is but the third year of the Law School, it has twenty-six regular law students enrolled and a large number of pre-legal students, who are completing the two years of pre-legal work required for admission to the law school. Dr. Harold Shepherd succeeds Dean Albertsworth as head of the Law School; Mr. Albertsworth having accepted a position on the law faculty at Western Reserve. Dr. Shepherd did his profes-

sional work at Leland Stanford, and will give the courses in Corporations, Administrative Law, Water Rights, and Sales at Wyoming. Professor Charles G. Haglund, formerly on the law faculty of the University of Kansas, has been added to the faculty, and will give the work in Contracts, Titles to Real Property, Constitutional Law, and Remedies. Mr. C. V. Garnett, of the Laramie bar, also is a new member of the faculty, and will conduct the work in Wyoming Practice and Procedure. Mr. Garnett is now engaged in preparing his material for this course, and comes to the Law School after considerable practical experience in his particular field. Hon. N. E. Corthell, of the Laramie bar, has been added to the faculty as special lecturer in the Ethical Obligation of a Lawyer. Otherwise the faculty remains the same as last year.

Courses in Water Rights, Code Pleading, Practice and Procedure, and Mining Law have been added to the curriculum, so that a wide choice of elective subjects will now be allowed second and third year students. The new library building, which will furnish the new quarters for the Law School, is rapidly nearing completion, and this will furnish the space which the growing needs of the law school demands. New additions are constantly being made to the law library, so that it is hoped admission to the Association of American Law Schools will not be much longer delayed.



There have been no changes in the faculty or courses of the Law Department of the University of Georgia since the last session of the Law School. The courses on International Law and Conflict of Laws, under Hon. Andrew J. Cobb, are being expanded. The opening attendance was larger than last year and the total enrollment promises to exceed all former years.



Over 300 young women are enrolled in the day and evening divisions of the Portia Law School this fall, an increase of nearly 100 since last year, and the largest number of women law students ever registered at one time in any law school in America. Two hundred and seventy-seven have selected the regular four-year course; the remainder being special students, who have enrolled for one or two subjects only.

The School celebrated its fifteenth year by occupying its own building at 45 Mt. Vernon street, Boston, situated on Beacon Hill, one-half minute's walk from the Statehouse. The new location includes a four and one-half story main building and a new three-story annex, all of which is devoted exclusively to the purposes of the school. The trustees purchased the building at an initial cost of \$45,000 and have expended about \$10,000 for alterations and additional equipment.

During the year 1922, 22 women have been admitted to the Massachusetts bar, of whom 19 are Portia graduates. At the commencement exercises, held in Ford Hall on June 1st, 23 graduates were awarded the degree of Bachelor of Laws; Hon. Herbert Parker, former Attorney General of Massachusetts delivering the principal address. Dean Arthur W. MacLean also spoke upon the subject of "Democracy and Legal Education."

The faculty has been increased to fifteen members by the acquisition of three new instructors. Professor Frederick O. Downes, formerly an instructor in Boston University Law School, will give the new elective course on Conflict of Laws; Ralph G. Willard, Esq., will teach Evidence in the evening division; and Joseph G. Wright, LL. B. (Harvard), will teach the same subject in the day division. A special course on State and Federal Income Taxation for ten weeks, beginning October 16th, is in charge of Oliver Wyman, A. B. (Harvard). Professor Bruce Wyman has been granted a year's leave of absence on account of illness, and his course in Sales is being conducted this year by Dean MacLean.

The annual "Portia Law School Night" at the Boston Symphony Orchestra "Pops" was held on May 19th, with over 400 alumnae and undergraduates present. On October 16th the Menorah Society gave a reception to freshmen in the new school building.



There have been several important additions to the faculty of the National University Law School, Washington, D. C., notably Associate Justice Charles H. Robb, of the Court of Appeals of the District of Columbia, as professor of Equity—the casebook course; Professor Johnson will continue the text-book course. Another addition to the faculty is Frederick Dunn, who is giving a course on International Law, based on Scott's Cases, which is being received with favor. Justice Frederick L. Siddons will continue to teach the two important subjects of Evidence and Negotiable Instruments. Next year will be his twenty-fifth consecutive year as a teacher in this law school. The law school gives a casebook course and a text-book course under different professors on each of the important subjects. The average age of the students is twenty-eight years and all of them except the government students are self-supporting. They are nearly all employees of the United States Government and are, therefore, an unusually high type of student.



The most important change in the New Jersey Law School has been the inauguration this year of a pre-legal course. This change is prompted by the resolutions of the American Bar Association that the preliminary entrance requirements should be

at least two years of college work. The subjects offered are those which are believed to be of practical use to the law student. The pre-legal course is to cover a period of two years and the program for the first year includes Economics, Professor Russell Gordon Smith; Outlines of History, Dr. G. Betz; Outlines of Literature, English, Dr. John H. H. Lyon; English Constitutional History, Dr. Robert L. Schuyler; Introduction to Law, Professor Richard D. Currier; Public Speaking and Parliamentary Law, Dr. Livingston Barbour. With the exception of Dr. Barbour, who teaches at Rutgers College, and Professor Currier, of New Jersey Law School, the other instructors are members of the faculty of Columbia University. The pre-legal course is not at present compulsory. It is hoped that the New Jersey State Bar Association in its winter meeting will adopt an active program looking to the raising of the standards by the Supreme Court to conform to the American Bar Association's resolutions.

Mr. George S. Harris has been added to the faculty. Mr. Harris is a graduate of the University of Vermont and of New Jersey Law School. He is giving the courses in Partnership, Crimes, and Torts.

The enrollment this year is 150 more than last year, and plans are under way for the further enlargement of the lecture room facilities. The plans also contemplate a material addition to the library.



Mr. R. A. Rasco has resigned as Dean of the John B. Stetson University Law School, and has joined the law faculty of the University of Florida. The Acting Dean of the John B. Stetson University Law School is Mr. G. P. Carson. Other new members of the faculty are Mr. Basil Franklin Brass and Mr. Irving C. Stover. President Lincoln Hulley, of the University, has general supervision of the Law School instruction.



The University of Oregon Law School writes that Professor Sam Bass Warner has been appointed to the Thayer Teaching Fellowship of the Harvard Law School and has been granted a year's leave of absence in connection therewith. He is a candidate for the S. J. D. degree from the Harvard Law School. Mr. Warner also expects to participate in the research work of the American Institute of Criminal Law and Criminology in the field of criminal statistics.

Professor Warner's position on the faculty is being filled by Dean Chas. E. Carpenter, of the Washburn School of Law.



The Ohio State University, at Columbus, opened this fall on the four quarter plan, though for the present there is no fourth or

summer quarter for the College of Law. The attendance of the freshmen class in the College of Law is 123, and is the largest in the history of the school. Forty of the 123 have had their preliminary two years' Arts work at other colleges.

Professor Lewis M. Simes has taken the place of Joseph Warren Madden, now Dean of the West Virginia College of Law, as professor of Property Law. Professor Simes comes to this University from the University of Montana, where he has been for the past seven years professor of Real Property Law.



Professor Roscoe E. Harper, in charge of procedural courses and practice court work in the University of Oklahoma Law School, has resigned to take a place in the firm of Mason & Honnold of Tulsa, Oklahoma. The vacancy has been filled by the election of Mr. Allison Reppy, a high honor Juris Doctor of the Law School of the University of Chicago. Mr. Reppy is a graduate of the University of Missouri, and has had experience in teaching in city schools and also as legal instructor in the Benton Law School of St. Louis, Mo. He will have charge of the courses in Code Pleading, Common-Law Pleading, Practice Court, Trusts, and Wills.

In spite of the fact that the University of Oklahoma Law School has for the last two years been requiring a year of college work as a prerequisite for entrance, the enrollment is larger this year than ever; the total number being 255. Beginning next fall, two years' entrance requirement goes into effect, which will doubtless cut down the enrollment.

During the last year a bequest of 7,000 volumes was added to the University of Oklahoma Law School Library through the benevolence of Hon. Clifford L. Jackson, of Muskogee, Oklahoma, who had formerly been president of the State Bar Association. This brings the number of volumes in the library to between 15,000 and 16,000.



The Northwestern College of Law, located at Portland, Oregon, entered upon its fall term with radical changes in its curriculum and with an increased student body. Since the discontinuance of the Oregon Law School, it has occupied the position of the only school of professional law located in the city. The course has been extended to four years of nine recitation hours per week, and the case system of instruction is now used in all courses. The increased curriculum has permitted the introduction of regular courses on such subjects as Insurance, Federal Procedure, Income Tax Law, Legal Ethics, and Legal Bibliography. The course formerly given as Elementary Law, being a general survey of the law, has been dropped, and in its place the subject of Legal Liabil-

ity has been substituted. The faculty consists of twenty members of the local bench and bar, including eight Harvard men who have had experience in teaching under the case system. In spite of the added requirements, the increase in enrollment is 25 per cent. over that of last year, and the pre-educational work of the students is of a steadily increasing grade. The school has at present two legal fraternities, and there is talk of organizing a third one.



The Pittsburgh Law School opened the year 1922-23 with the following enrollment: Juniors, 97; middle, 59; seniors, 45—a total of 201 students. The figures for the year 1921-22 were as follows: Juniors, 77; middle, 48; seniors, 43—a total of 168 students.

Mr. J. G. Buchanan, after a leave of absence for one year, has returned to the faculty, and is again giving the course in Conflict of Laws.

Col. R. H. Hawkins has become a full-time member of the faculty, and is giving the courses in Common Pleas Practice, Pennsylvania Real Estate, and first year Property. Col. Hawkins has recently published revised editions of his text-books, "Notes on Common Pleas Practice," and "Notes on Real Estate in Western Pennsylvania."

Professor Nathan Isaacs for the second time gave the course in Commercial Law at the Summer Session of the School of Business Administration at Columbia University.

A Summer School Session was conducted by this Law School at which there were 30 students present, all of whom were regular students of the school. Four courses were given by Professor G. J. Thompson and Professor J. A. Crane. It is expected that a Summer Session will be held each summer hereafter.



The University of North Carolina School of Law opened its eightieth year this fall with a net registration of 111 students, of whom 65 are in the first year class, 40 in the second year class, and 6 in the third year class. Ninety-six of those enrolled have had some preliminary college training. Twenty-five of these have had but one year, 37 have had two years, 24 have had three years, and 13 have received a college degree. Of the total enrollment, 37 are candidates for a law degree. Twenty of these are in the first year class, 13 are in the second year class, and 4 are in the third year class.

There have been no changes in the faculty. The curriculum has been expanded and made more flexible by the addition of courses in Legal Bibliography, Mortgages and Suretyship, Federal Courts, and Bankruptcy, with provision for the alternation of certain of these courses with those formerly offered.

Two members of last year's third year class are now pursuing graduate work at the

Harvard Law School. These are Mr. Charles L. Nichols and Mr. D. W. Isear.

Wilbur Stout, A. M., has been appointed librarian and secretary of the School of Law. As a result, the library is being rearranged and catalogued, and the routine work of the Dean's office reorganized. The library has been considerably augmented this summer by the purchase of the English Reports since 1876, complete sets of the leading legal periodicals, and a large number of treatises. In addition, the entire collection has been overhauled and repaired.

The faculty and students of the school last spring established the North Carolina Law Review, to be regularly issued in November, January, April, and June. The first number appeared in June. The editorial staff consists of Associate Professor M. T. Van Hecke, editor in charge, Professors L. P. McGehee, A. O. McIntosh, and P. H. Winston, and Assistant Professor R. H. Wettach, associate editors, and a number of student editors selected from the second and third year classes. On the June issue there were twelve student editors. This year the student editorial staff will number eighteen. The review is devoted mainly to the critical discussion of problems of North Carolina law.

Work has begun on the new law building. It will be completed in the spring, and will be a thoroughly modern and complete home for the School of Law. There will be three recitation rooms, two seminar rooms, a large reading room and stack room for the library, offices for the dean, the librarian and secretary, the instructors, and the North Carolina Law Review, and a lounging and locker room for the students. The building is to be of reinforced concrete construction, in the colonial style of architecture, and the outside will be of brick, with limestone trim. It will cost in the neighborhood of \$175,000.



The St. Louis University Institute of Law resumed classes for the fall term on October 2d in the handsome new Law Building. The new edifice is perhaps the most imposing of the structures erected by the University in the last five years, and is complete in every detail. It contains five spacious new class rooms, offices and faculty rooms, a large smoking and lounging room for the men students, and a rest room for the women students. The library and reading rooms have been considerably enlarged, and a locker room equipped with steel lockers has been installed. Balconies and boxes have been added to the auditorium, in the rear of the Law Institute, so that the seating capacity will be increased to 1,200.

The added entrance requirements of two years of approved college work have effected the enrollment but slightly. At this time we have a total registration of 408 students.

Mr. A. G. Eberle, who has been Secretary and Registrar of the Law School for the past four years, has just been appointed resident Dean of the School. Owing to the illness of Mr. Bakewell, the former Dean, Mr. Eberle has been in active charge of the Law School for some time. He is therefore well acquainted with the duties of his new office. His appointment is very popular with the student body, whose relations with their new Dean in former years have been very agreeable.

Mr. James Higgins, who graduated with honors from this same school several years ago, has been appointed Secretary and Registrar of the school.



Suffolk Law School reopened for its seventeenth year with the largest attendance in its history. While registration of new students is not yet complete, the indications now are that the freshman class will exceed 700 men, with a total attendance this year in the entire school of nearly 1,500 students. The remarkable growth of Suffolk Law School is indicated by the following: 1919-20, 591 students; 1920-21, 761 students; 1921-22, 1072 students.

The faculty now consists of twenty professors, six of them teaching in the freshman class. It has been found necessary to devote two lecture halls to the sophomore class, and to assign the Suffolk Theater, school auditorium, to the freshman class.



The John Marshall Law School at Cleveland is conducting classes forenoons, afternoons, and evenings, six days each week. The school continues to enjoy unusual prosperity.

Grover C. Hosford, formerly of the University of Missouri Law School, is teaching Partnership and Corporations together under the caption "The Law of Associations." This is a new departure. Mr. Hosford joined the Faculty of the John Marshall last year.

Ohio Northern University, at the annual commencement last May, conferred the LL. D. degree on David C. Meck, the Dean of the school.

The alumni are availing themselves of a postgraduate course of one year under the instructions of leading members of the Cleveland bar. The course is proving very popular, and is largely attended.



The University of Virginia Law School opened its session with an enrollment of 233, indicating a final total for the session of about 265. This compares with last session's enrollment of 325, the largest in the history of the Law School. The decrease is due in large measure to the entrance requirements, in force this session, of the successful com-

pletion of two years of standard college work. Another contributing factor was the graduation last June of 86 students, in a class representing an accumulation from the period of the war.

The present faculty is comprised of Dean William Minor Lile, LL. D., James Madison Professor of Law; Charles Alfred Graves, M. A., LL. D., Professor of Law; Raleigh Colston Minor, M. A., LL. B., James Monroe Professor of Law; Armistead Mason Dobie, M. A., LL. B., S. J. D., Professor of Law; George Boardman Eager, Jr., B. A., LL. B., Professor of Law; Charles Wakefield Paul, Associate Professor of Public Speaking; Frederick Deane Ribble, M. A., LL. B., Acting Assistant Professor of Law.

Professor Minor is now on leave of absence due to ill health, and his work is being conducted by Acting Professor Ribble.

Professor Dobie has returned to the Law School after an absence of two years, one spent as Executive Director of the Centennial Endowment Campaign, and the second in postgraduate work in the Law Schools of Harvard University and Columbia University. The S. J. D. degree was conferred on Mr. Dobie last June by Harvard University.



The law faculty of Vanderbilt University Law School has been strengthened by the appointment of Professor Charles S. Lawrence as a full-time member. Professor Lawrence is a graduate of Vanderbilt University, with the degrees of A. B. and LL. B. He was formerly engaged in the practice of law at Nashville, and during that time gave several courses in law at the University. During the last ten years, he has been an attorney in the Department of Justice at Washington, being the head of the Title Division. His return to the law school is welcomed by his friends, and he brings to the classroom a wide experience and broad scholarship. He will teach during the coming year Private Corporations, Public Corporations, Equity Pleading, Code Pleading, Criminal Law, and Brief Making.

The summer school, under the direction of Professors Schermerhorn and Turck, had a satisfactory attendance and will be continued henceforth. The Moot Court work under Dean Keeble and Professor Schermerhorn has been reorganized, and is a feature of the work of the second and third year classes. Professor Turck is using in his course in Contracts his little collection of Problems in Contract Law, which adds something to the interest of the students in the course. Professor Turck was appointed Secretary of the Law School by the Vanderbilt Board of Trust last June.

Professors Seay, McAlister, and Hall continue their usual courses. Dean Keeble, in addition to the Moot Court work, instructs the classes in Common-Law Pleading and in Constitutional Law, as he has done in years

past, and in spite of unusually heavy duties in his law practice, connected with the railroad strike last summer, he has been able to establish the school this year on the strongest basis it has known since its organization in 1875. The student body this year represents twenty-two different states. Next year Vanderbilt will raise its entrance requirements to one year of college work, but no great decrease in the attendance is anticipated, as a large proportion of the entering class this year has had at least one year of college credits.



The total enrollment at the Kansas City School of Law for all of last year was 584. It is expected that there will be a larger total enrollment this year. The enrollment at the present time is almost 20 per cent. heavier than it was at the corresponding period last year.

Although the course is now a four-year course, the change has only been in effect a few years. Accordingly there is one class missing. There is no senior class for this year. Next year all of the classes will be filled in.

Special courses in Damages, Workmen's Compensatory Law, and Roman Law have been added to the sophomore year. Special courses in Guaranty and Suretyship and Mines and Mining have been added to the junior year, and courses in Conflict of Laws, International Law, and Federal Jurisdiction and Procedure have been added to the senior year.



The fall term at Northwestern College of Law, in Minneapolis, began on September 11, 1922. The enrollment for all classes is 205. Great interest is being evidenced in class organization. School and class officials have been elected, and various social activities, including the organization of a fraternity, are being looked forward to. Every effort is being made to improve the standard of the school.

Mr. Carl C. Wheaton, late of the Cincinnati Law School, Cincinnati, Ohio, who has been devoting the past five years to full-time teaching, has been engaged as Assistant Dean. He is a big asset to the school, and is exerting every effort to help improve the school in every department. The opening of a day school is now being organized for and enrollments received. Much interest is being taken in this development by the students, faculty, and alumni.



The Y. M. C. A. Law School, in Minneapolis, reports the following changes in the faculty:

Mr. Sigurd Ueland has accepted instructional work with the University of Minnesota Law School. His place will be filled by Leavitt R. Barker, with the firm of Lancaster,

Simpson, Junell & Dorsey. Mr. Barker is a Phi Beta Kappa in the A. B. course of Beloit College, and received his LL. B. from Harvard University. He was assistant to instructor in Rhetoric at Beloit College and was also instructor at Ft. Sill Camp. He held the rank of captain in service in the World War.

Mr. Leo P. McNally, who was planning to give Domestic Relations, will take the subject of Torts, following the resignation of Mr. F. H. Stinchfield, who relinquishes this year on account of his excessive work as President of the Hennepin County Bar Association. Mr. Leo P. McNally is a University of Minnesota man, taking his LL. B. degree from the night school.

Mr. Robert M. Crounse, with the firm of Jamison, Stinchfield & Mackall, will instruct in Domestic Relations. He is University of Minnesota A. B. and LL. B.

Mr. David Shearer, who has been added to the faculty this year for the first time is the son of James D. Shearer, of Shearer, Byard & Trogner, and graduated from the University of Minnesota A. B., and Harvard LL. B.



The College of Law, West Virginia University, opened with a substantial increase in registration. All of the six full-time professors who constituted the teaching staff last year have returned this year. The new law building is well under way, and will probably be under roof by winter, and will be easily completed in time for the opening of the school year, 1923-24. The West Virginia Law Quarterly will be published by the faculty and students of the College of Law, as during the past several years. It is also the official publication of the West Virginia Bar Association.



The following changes have been made in the law faculty of the University of Mississippi:

Judge D. M. Russell, formerly Chancellor of the Tenth Chancery Court District of Mississippi, has accepted a place in the law faculty. This gives the School of Law three men who give their full time to the work.

The enrollment in the Law School for the session of 1922-23 is as follows: First year class, 34; second year class, 40. There is no graduating class, save two or three, on account of change to the three year course. The Law School now has a three year course and has made application for membership in the American Association of Law Schools.

There will be added to the Law Library about 1,000 more volumes of law during the month of October.

The Blackstone Club will for the first time in the history of the Law School publish a Law Review. Members of the Mississippi bar have subscribed liberally to the publica-

tion and have shown considerable interest in its success.



New members of the faculty of the Cleveland Law School are Mr. Harold W. Hawkins, Harvard law graduate and former professor in Michigan University, and Mr. Jesse Vickery. Afternoon and evening sessions are being held this year in all the classes.



The following additions have been made to the faculty of the Syracuse University College of Law: Mr. Harold H. McBride, who teaches Sales and Liens, and Mr. John Farnham, who gives a course on the Compensation Acts. The following new courses, which are elective, have been added to the curriculum: Workmen's Compensation and Federal Compensation Acts, Bankruptcy and Insolvency, Municipal Corporations, Searching and Examination of Titles. Professor George W. Gray is to teach Municipal Corporations. The instructors for Bankruptcy and Searching and Examination of Titles have not yet been secured, as the courses will not be given until the second semester.



Dean Hugh E. Willis, of the law faculty of the University of North Dakota, has left the law school to go to the law school of the University of Indiana. Professor Albert Levitt and Professor Josiah Babcock have also resigned from the faculty.

New appointments on the faculty are the following: Thomas E. Atkinson, LL. B. University of Michigan, has been appointed as Associate Professor of Law. Robert W. Muir, A. B. and LL. B. University of Minnesota, has been appointed Assistant Professor of Law. Charles E. McGinnis, LL. B. University of Kansas, has been appointed Assistant Professor of Law.

Pending the appointment of a Dean for the University of North Dakota Law School, Professor Lauriz Vold, an old member of the faculty, has been appointed chairman of the law faculty.

The University of North Dakota Law School is now entering upon its career as a full two-year college entrance law school. The two-year college entrance requirement went into effect just as the United States was entering the World War. Due to the interruption of studies by military service, very few students were able to take the preparatory college work until after the close of the war, and consequently for several years the attendance has been low. With the lapse of time, however, for the two-year college requirement to be satisfied in the ordinary course, the first year class in the law school is again showing signs of approaching normal proportions.

The new law school building, for which

\$150,000 was appropriated by the Legislature at its session in 1921, is now in course of completion. It is expected that the building will be ready for occupancy some time during the college year.



The Akron Law School is now in its second year, looking forward enthusiastically to the future.

A new member of the faculty of the Akron Law School is Mr. George E. Bailey, who has been an instructor for eight years in the Cincinnati Law School. Mr. Bailey takes the place of Mr. George M. Anderson, who resigned because of poor health.



The following new members have been added to the faculty of the Benton College of Law at St. Louis:

Judge Frank Landwehr, Judge of the Eighth Judicial Circuit, has been appointed lecturer on Personal Property. Judge Landwehr is a graduate of the Benton College of Law of the class of 1906 and is widely known to the bench and bar in Missouri.

Mr. A. J. Gummershimer has been appointed instructor in the business administration department and will teach Commercial Geography. Mr. Gummershimer is instructor in the commercial department of the Soldan High School.

The Benton College of Law will offer during the present session a series of free lectures on Americanization. The present series of lectures is an extension of the work done in previous years. The lectures will be delivered on Sunday afternoon at the college at 3 o'clock and are open to the public.



The Howard University School of Law, at Washington, D. C., opened on October 2d. For more than a quarter of a century the School of Law has occupied its own home on Fifth street, across from the Supreme Court and the Court of Appeals. For a long time the space utilized consisted of only two class rooms, the library and the secretary's office. The building has been remodeled this summer to such an extent as to constitute substantially a new building.

In the new building on the first floor there are two large class rooms, one of which is to accommodate the Moot Court. On the second floor are one large class room, a faculty room, the secretary's office, and quarters for the janitor. The third floor contains a large class room, a ladies' room, and the new quarters for the library, with ample accommodation for readers and shelving for 10,000 volumes.

A feature of the rebuilding program is the equipment and the enlargement of this new library. Already large additions to the number of volumes have been purchased or

ordered, with others to follow. A number of donations also are expected.

The reorganized faculty of ten is headed by Judge Fenton W. Booth, of the United States Court of Claims, succeeding the late Dean Mason N. Richardson, who served the school for 27 years.

Professor James P. Schick also comes as a new member of the faculty, succeeding Professor William H. H. Hart, who after graduating in the class of 1887, was soon called back to become a teacher, and served his Alma Mater until the close of last year, a period of almost 35 years.

Judge Robert H. Terrell, of the Municipal Court, and Professors Richards, Cobb, Wilson, Birney, Houston, Shreve, and Waters, are the remaining members of the faculty, who retain the chairs they held last year.

Miss Ollie M. Cooper, herself a recent graduate in law, continues in the office as clerk of the school. Miss Cooper is also clerk of the Moot Court.

So far the registration is 125, including 29 Veterans' Bureau trainees. Last year the registration reached 156, including 55 federal board trainees. The marked drop in numbers, due to the disappearance of the Veterans' Bureau trainees, is noted in all the law schools of the country. At Howard, however, there is large compensation in the higher grade of preliminary training evidenced by the records of the new matriculates.

A gratifying feature of the registration this year is the increase in the percentage of matriculates who have completed from one to four years of work of standard college grade. Beginning October 1, 1924, the requirements for admission will include two years of standard college training.



The City College of Law and Finance, 322 North Grand avenue, St. Louis, Missouri, opened its post graduate law course on October 17, 1922, with the largest registration in its history.

The faculty includes Hon. Chas. B. Davis, A.B., LL.B., Judge of the Circuit Court, St. Louis, who has been appointed Dean of the postgraduate law faculty, Hon. H. S. Caulfield, A.B., LL.B., City Counselor for the City of St. Louis, who will give a special series of lectures on the Bill of Rights in Constitutional Law.

The Moot Court work this year will be directed by Judge Henry A. Hamilton, former first Assistant City Counselor for the City of St. Louis, and now Judge of the Circuit Court.

The school is to be congratulated upon having secured the services this year of Hon. Granville Hogan, A.B., LL.B., Judge of the St. Louis Circuit Court, who has the undergraduate class in Equity, and will also

serve on the postgraduate faculty as lecturer on Missouri Substantive Law.

Special emphasis this year will be placed on Moot Court practice. The student will be given an opportunity to develop his initiative in the arrangement of Evidence, in the selection of the jury and pleading his case. Special advantage in Moot Court practice in the postgraduate department will be the supervision of all work by Judge Henry A. Hamilton of the St. Louis Circuit Court.

Hon. E. F. Oakley, A.B., LL.B., Prosecuting Attorney of the City of St. Louis, will serve the City College this year as lecturer on Criminal Law.

Due to illness, Prof. Homer B. Kelly, instructor in Torts, is obliged to resign from the faculty, and has been succeeded by Prof. E. H. Robinson, A.B., LL.B., with offices in the Pierce Bldg., St. Louis.

Prof. Walter N. Davis, A.B., LL.B., has been appointed this year as lecturer on Code Pleading.

Prof. Jos. A. Grand, LL.B., has been placed in charge of the class in Elementary and Commercial Law.

In addition to his regular course on Constitutional Law, City Counselor Caulfield will also give a series of lectures on Municipal Corporations.

Although Prof. A. A. Alexander is a candidate for Congress, he is to remain with us throughout the scholastic year.

Prof. T. O. Stokes has succeeded Prof. Walter Roos as professor of Domestic Relations.

Students of Real Property are advised by Prof. McCune Gill that they can now secure his outline of Real Property in printed form, and it is well for them to secure a copy at their earliest convenience.

First year law class is the largest in the history of the school.



The University of Omaha Law School has added to its faculty the following new instructors: William Yeager, Criminal Law; Charles E. Foster, Contracts; William W. Wenstrand, Chattel Mortgages.

Moot Court and Practice course will be presided over by Ralph Van Orsdel and Charles W. Haller this year.

The Lambda Phi Law Fraternity, a chapter of which was formed last term in the University of Omaha Law School, has received the support of the students and faculty, and has in some measure added to the feeling of growth in the school.



The Albany Law School opened on September 20th with a slightly increased number of students over any previous year.

The death in May last of Lewis R. Par-

ker, lecturer on Bailments, Bills and Notes, and Constitutional Law, caused vacancies in those topics which have been filled by Arthur L. Andrews, Esq., former Corporation Counsel of the City of Albany, taking Bills and Notes, Dean Fiero Constitutional Law, while the chair of Bailments will be filled by Raymond F. Allen, a graduate of the school, class of 1920.

The Legislature of 1922 authorized the city of Albany to provide a site for the Albany Law School in what is known as Sheridan Park, an exceedingly desirable location. This act was accepted by the city of Albany, thus providing for a very attractive site for a new building, the exact location of which has not yet been determined. Steps are being taken to raise a sum sufficient for the erection of a building to cost from \$150,000 to \$200,000. Part of that sum is already in the hands of the trustees, and a very considerable further amount has been pledged by the alumni.

The St. Vincent School of Law of Loyola College, Los Angeles, began the second year of its existence this fall. The new professors recently added to the faculty are Mr. A. I. McCormick, former U. S. District Attorney, who teaches Corporations; Mr. Frank P. Jenal, M. S., M. A., LL. B., who teaches Equity Jurisprudence; Mr. W. J. Ford, A. M., LL. B., who teaches Common-Law Pleading. It is planned, also, to add to the faculty one of the Superior Court Justices, who will give the course on Constitutional Law. Classes are held on Monday, Tuesday, Wednesday, and Thursday evenings. The course extends over a period of four years.

The present session of the Law School of the University of Richmond, Richmond, Va., opened September 15th. The enrollment to date is 140, an increase of 26 over the total registration of last year. There are no changes in the faculty or the subjects offered. Heretofore all lectures in the course which covered three years have been given in the evening. Beginning with this session, the school will comprise two divisions, morning and evening. The course in the former covers three years; in the latter, four. The number of subjects and the length of time devoted to each are the same in each division. Only the first year subjects are offered this year in the morning division. A change in the entrance requirements, calling for a gradual increase in the academic preparation, has been adopted. In 1923-24 one year of college work, and in 1924-25 two years of such work, will be required as a prerequisite to the law degree.

A plan is under way whereby an affiliation is to be effected between the Legal Aid Society of the city of Richmond and the Law School. It is contemplated that the entire

work of the society will be taken over by the students of the school under the supervision of a member of the faculty.

There has been no change in the faculty of the Minnesota College of Law, Minneapolis. Mr. Colin W. Wright, General Attorney of the Minneapolis & St. Louis Railroad, is teaching the subject of Bailments and Carriers in place of Mr. Stanley B. Houck, who is unable to handle the course this year, owing to the fact that he will be in Washington, D. C., the greater part of the year.

This marks the beginning of the seventh year of the John M. Langston School of Law of the Frelinghuysen University, in Washington, D. C. This school, conducted solely by men of the colored race, has increased its faculty and facilities, and reports an increase in its enrollment. A library, consisting of about 1,000 volumes of law books contributed by members of the District of Columbia bar, has recently been installed. Graduates of the school are meeting with success in many of the states. This is the only law school in the South where men of the colored race may receive the LL. M. degree.

The University of Memphis Law School has increased the term to three years. There are only two classes at present, the class entering the three year term and the graduating class under the two year term. Hon. Joseph Hamner, member of the Memphis bar, has been added to the faculty. The school opened with a large enrollment, and students are still coming in.

Judge Robt. M. Jones, of the College of Law of the University of Tennessee, has become a member of the law faculty, taking the place made vacant by the death of Prof. C. W. Turner, former Dean of this Law College. Prof. Turner died on May 10, 1922, at the age of 78, after 30 years of active service in this institution.

During the summer many valuable additions were made to the law library and steel lockers were installed for all law students.

The Tennessee Law Review will shortly appear among legal periodicals. A student editorial board has active charge. This magazine will not only be the official publication of the University of Tennessee College of Law, but will also be the official organ of the Tennessee State Bar Association.

The Y. M. C. A. Law School at Cincinnati takes justifiable pride in the constantly increasing enrollment, because the standards

of the school have been very radically raised within the last two years. The course has been put upon a four-year basis, and this has not in any way cut down the enrollment. Further than that, the majority of the instructors of the school use the case or inductive method of instruction. Eight of the instructors are honor graduates of the Harvard Law School; one, Yale Law School; one, Columbia; three, Cincinnati; and two, of the Y. M. C. A. Evening Law School. The policy of the school has been to have an instructor give but one course. All the instructors are either practicing lawyers or judges of the local courts. The salary paid is negligible; the inspiration for the work being social service and to help raise the standards of the local bar.

♦ ♦ ♦

Several changes have been made in the outline of study at the Youngstown School of Law, and the courses have been lengthened. This year there was added to the course of study Real Property IV (Landlord and Tenant), Mortgages, Trusts, Insurance, Brief Making and the use of Law Books, and Conflict of Laws.

Three new instructors, E. M. Malden, Jr., James E. Bennett, and Max E. Brunswick, have been added to the faculty. Mr. H. J. Scarborough, who was for five years Professor of Torts, left our school this fall to accept a professorship of law in the Law Department of the University of Kentucky.

The quarter system, dividing the calendar year into four quarters of twelve weeks each, has been adopted, and is working very successfully.

Over 150 volumes have been added to the law library this fall. This includes American and English Annotated Cases, Ohio Decisions Reprints, and about 85 volumes of English Chancery Reports by various reporters.

On October 1st, the school was moved from the Y. M. C. A. Building to more spacious quarters located at 315 Wick avenue, where an entire building was taken over for the college grade schools of the Youngstown Institute of Technology.

♦ ♦ ♦

The Chattanooga College of Law opened its 1922-23 session September 25th, with a marked increase in attendance over the year previous.

The faculty remains practically the same, with a few minor changes in the subjects assigned to the various instructors. Judge Swaney has returned to his post after an absence during a good part of the summer in connection with his position as Chairman of the American Bar Association Committee on the subject of Law Enforcement.

The school has combined its library with that of the Chattanooga Bar & Library Association, which gives a splendidly equipped library of over 11,000 volumes.

The school last year changed its course of study from a two to a three year course, and is maintaining a high standard of scholarship.

♦ ♦ ♦

The prospects are for a very successful school year at the College of Law of Willamette University, Salem, Oregon. At a recent meeting of the faculty the advisability of raising the entrance requirements from a standard high school course to one year of college work was discussed, and, while not formally approved, was very favorably considered. The matter of undertaking a campaign for the endowment of the law school was also discussed. A committee has been appointed by the Board of Trustees of Willamette University for the purpose of making a thorough investigation along this line, and the matter is under serious consideration. This undertaking, if successful, would make it possible for this law school to meet the requirements for membership in the Association of American Law Schools.

♦ ♦ ♦

Duquesne University Law School, at Pittsburgh, Pa., has completed an experiment of holding class hours from 5:30 to 7:30 each afternoon, and has decided to make all sessions convene at this time. The change has led to an increased enrollment, and gives greater satisfaction to the lecturers and instructors, who are all actively engaged in the practice of law.

Robert M. Gibson, Esq., lecturer in Criminal Law, and First Assistant District Attorney for eight years, has been elevated to the bench in the federal District Court, but will continue to give his lectures as before.

Individual oral arguments before a board of five members of the faculty will be introduced this year, and will tend greatly towards fixing the standing of the students.

♦ ♦ ♦

Ernest S. Merrill, who has been teaching law in the Norfolk Night Law School, Norfolk, Va., tendered his resignation last month, having decided to devote all of his time to the practice of law, and Messrs. Theodore Pryor Wilson and John O. Davis have succeeded Mr. Merrill.

The school opened September 15th, and will continue until the 15th of June next year.

Enrollment this year is 40, half of which constitutes first year men, 8 second year, and 12 third year men.

Mr. J. S. Ediss has been re-elected director of the law class and has succeeded in increasing its membership considerably.

♦ ♦ ♦

The School of Law of Mercer University, Macon, Georgia, has recently been thoroughly reorganized. Its entrance requirements and its course of study have been modified

to conform to the standards of the Association of American Law Schools. New class rooms and quarters for the library have been fitted up. Many books are being purchased for the library.

At the beginning of the year the faculty was enlarged by the addition of three men, and since the present session began a very distinguished citizen of Georgia has been offered the Deanship and has accepted. The new head of the School is William Hansel Fish, now Chief Justice of the Georgia Supreme Court. It is understood that he will take charge after the expiration of his present term as Chief Justice, in January, 1923.

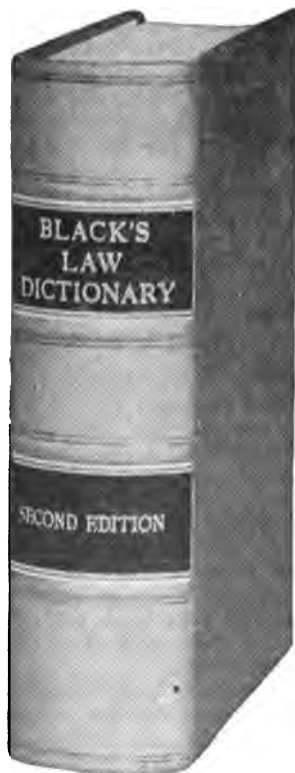
The other new members of the faculty are Thomas Marvin Smith (LL. B. Mercer University), Harry Louis Thompson (J. D. Yale University) and John Howard Moore (J. D. University of Chicago).

The former members of the faculty, who are prominent lawyers and judges living in Macon, will continue to assist in the conduct of the School.

The course hitherto offered having comprised the work of only two years, there is no regular senior class this year. Students taking first-year and second-year work number sixty-four.

It is the intention of the authorities soon to apply for membership in the Association of American Law Schools.

Much local interest has been manifested recently in the history of the School. Friends have pointed out that an extraordinarily high percentage of its alumni have won distinction. A current example is seen in the recent election of Walter F. George, an alumnus of the School of Law, to the United States Senate. Mr. George won, it appears, against a field of seven candidates, six of whom were alumni either of the Collegiate Department or of the School of Law of Mercer University. It has been remarked also that four or five recent candidates for the Governorship of Georgia were alumni of the Mercer School of Law.



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The American Law School Review

An Intercollegiate Law Journal

S. E. Turner, Editor

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No. 2

Some Observations on the Law School Curriculum

By JAMES PARKER HALL

[Address of the President of the Association of American Law Schools, delivered at the Twentieth Annual Meeting at Chicago, December 28, 1922. The discussion following the President's address will be found on page 108 of this magazine.]

DURING the past two years the members of the Law School Association have been largely engaged, in co-operation with the American Bar Association, in endeavoring to state and to secure public recognition for higher standards of admission to the bar than have heretofore prevailed in this country. At its annual meeting in 1921, the Section of Legal Education of the American Bar Association adopted resolutions expressing its opinion that every candidate for admission to the bar should be a graduate of a law school requiring for admission at least two years of college study, providing for its students an adequate library and faculty, and requiring three years of full-time study of law (or an equivalent increase in this period for part-time schools). At its meeting in December, 1921, this Association changed its admission requirements for member schools, so as to require that by 1925 they all exact from students the two years of college study recommended by the Bar Association as preliminary to the study of law; the other requirements being already substantially in force.

In February, 1922, there was held in

Washington a Conference on Legal Education, attended by over 300 delegates from Bar Associations and law schools, which, in substance, indorsed the recommendations of the American Bar Association as regards states where there exist adequate educational facilities for meeting them. The Executive Committee of our Association is proposing at this meeting certain amendments to our articles designed to facilitate the enforcement of these standards within the Association, and to make our requirements substantially similar to those recommended by the American Bar Association for admission to the bar. These measures mark the close of a long campaign within the Law School Association for the adequate standardization of admission requirements to law schools. From requiring in 1901 the equivalent of a high school course of unspecified length, the Association came in 1907 to demand a full four-year high school course, and in 1908 officially expressed the hope that ultimately all members would require two years of college work, a hope that was realized last year by a unanimous vote of the schools in the

Association. The Association's requirement of a three-year law course dates from 1905; that of an adequate library from 1912; and the one for full-time instructors became effective in 1919.

The only respect in which our requirements substantially differ from those of the American Bar Association regards the recognition accorded to night schools. They at present are ineligible to our membership. The Bar Association accepts the work of such schools (if otherwise qualified), provided that they require of their students a course that shall contain as many working hours as that of a full-time school. Probably no night school could do this in less than four years, and many would require more time. The amendments to article 6 submitted by our Executive Committee at this meeting make night schools eligible for membership in the Association on the same basis as day schools, provided they require as much work for a degree. Such a change was informally discussed at our meeting a year ago, without decisive result, and is now offered in a form that it is believed can be administered without undue difficulty. I venture to express the hope that it may be adopted, for three reasons:

First. It may encourage night schools of a noncommercial type—of which there are happily a few—to raise their entrance requirements and lengthen their courses of study, so as to become more effective instruments of legal education than would otherwise be possible, and the prestige of membership in the Association would be of distinct advantage to them in competition with various commercialized non-member rivals. Not a few of the students in the night law schools of our large cities have had at least two years of college work, and probably would prefer to attend a night school composed chiefly of students as well prepared, if one were available. It is not too much to hope that at least one night school in each of our larger cities might be induced to adopt such standards, if adequately encouraged to do so, and a place on the American Bar Association list of preferred schools and

membership in our Association would certainly help them.

Second. Considerable criticism, whether deserved or not, has been directed against our Association, because it has refused to recognize night school work as such, without regard to its quality. Inasmuch as there is no likelihood of the abolition of night law schools for an indefinite period, while there is much possible room for improving them, it seems the part of wisdom and fairness to help the better ones, where it can be done to the improvement of legal education. Any night law school which in good faith would be willing to meet the present high requirements of the Association would be a great improvement upon existing night schools, and would deserve whatever advantage membership in the Association might give it. There will always be considerable differences between members of the Association, and it may well be believed that night schools that could qualify for admission would not necessarily be the least efficient schools in the Association. Such recognition of them would also largely disarm criticism of the motives of the Association and increase the weight of its recommendations for admission to the bar.

Third. Now that the American Bar Association and many of the local and state associations have embarked on a campaign to raise the requirements for admission to the bar it would be unfortunate to have any substantial differences of opinion between them and ourselves as to what constitutes proper standards of legal education. It is going to be hard enough at best to induce Legislatures and courts to adopt our views, if we are unanimous, without subjecting those views to such suspicions of unsoundness as may arise from controversy between ourselves.

But, while we are doing what we can to educate public opinion to the desirability of higher standards for admission to the bar, there remain with us permanently our own internal problems, and, among them, the one of the best use to make of the time that can be devoted by

students to law school training. It is to a phase of this that I shall devote the remainder of my remarks. Assuming that, for a considerable time at least, not more than three full years of legal study will be required by our states for admission to the bar, nor by our law schools for degrees, how shall we enable students to get as much out of this time as possible?

A careful examination of the courses commonly offered to students by members of the Association seems to justify the conclusion that enough of them to occupy about three-fourths of a student's time—that is to say, about two and one-fourth school years—are so important that a student would rarely be wise to replace any of them with courses chosen from the remainder of the curriculum. Doubtless not all teachers would agree upon the content of a list of the fundamental courses, and probably the same teacher would not make the same list for all schools; but, after making due allowance for reasonable differences of opinion, I think the above statement approximately correct. A student is, therefore, ordinarily at liberty to choose about three-fourths of a year's work from the courses of lesser importance. The entire list of those courses, in several schools, exceeds the fundamental ones in number and substantially equals them in combined length. In such a school the student who does no extra work for a degree will be able to take only one-third of the less important courses, if he takes all of the more important ones. In schools with a smaller number of electives the proportion that may be taken is greater, but, taking all members of the Association together, it is clear that the average three-year graduate, even though he do some extra work, will not be able to undertake more than from two-fifths to two-thirds of the lesser courses offered.

It is, of course, easy to exaggerate the importance of taking all, or nearly all, of these lesser courses. Even if a student could study them all he would still find in the world of practice many subjects, particularly statutory ones, of great prac-

tical value and interest, which are not, and are not likely to be included in law school programs. But a well-prepared student, who has studied three years in a good law school, who has taken under capable instruction all of the more important subjects and a fair number of the less important ones, is not helpless when a question arises in practice outside of any course he has studied, or even outside of those taught in law schools. Almost always he has a reasonable opportunity to study the matter and to inform himself. By fair industry and the use of that power of legal reasoning which he has acquired in the law school, he can rapidly come to sound conclusions about most questions on which he has had no systematic instruction.

But, other things being equal, the more ground a student can cover in a law school the better, and so I wish to examine critically certain suggestions that have been made with this end in view.

The case method of studying law, which has achieved so complete a mastery of American legal education of the better sort, has certain unrivaled advantages in dealing with fundamental or difficult legal problems. As a method of training students in the technique of legal reasoning and in the rational and historical processes of legal thought, it yields incomparably better results than does any other. And this, of course, is the heart of the matter of making real lawyers. But, as has often been observed, it is a slow method, and in a given time very much less ground can be covered by it than by methods variously described as didactic, or descriptive, or informational. It is not so often perceived, however, that this is not so much a criticism of the case method as a statement (of what is indeed the fact) that there is no easy and rapid method of acquiring an adequate professional knowledge of a subject like law. History, economics, politics, religion, and all the important emotional reactions of society have affected the reasoned processes by which its doc-

trines have been wrought, and no mere description of the results as they appear at any given moment of time can begin to give the insight and mastery that come from thinking them through in company with the judges and lawyers who were the instruments of their fashioning. If this is a slow way, it is at any rate the only sure way.

Two plans have recently been proposed for enabling students to cover in the allotted three years of law school study more of the courses of lesser importance.

The first one suggests that much of the instruction in the lesser courses be made *informational* rather than *disciplinary*, and that the case method of study be here largely abandoned, on the ground that students get enough of this, for purposes of training, in the important courses which take three-fourths of their time, and hence that *information* about a considerable number of the remaining topics of the law becomes more valuable than *reasoned training* in a lesser number.

The second plan would retain the case method of instruction, but would attempt to cover with it only the more important or more difficult parts of the lesser courses (omitting other parts or merely giving reading references to them), thus enabling a student to touch the "high spots" of a larger number of the lesser courses, at the sacrifice of their simpler portions and relative details.

Of the two, the second seems to me the better plan. It is true that a student who has spent three-fourths of his law school time in case method study has learned to work by this method, and can use it intelligently on any topic that he may choose to investigate. In this sense it is also true that somewhat more case study in the law school probably would not give him greater facility in this. But the time spent in a law school is so important, educationally, that it seems unwise to spend any substantial part of it in exercises which a student could carry on nearly as well by himself outside of school; and the acquisition of mere

information about law is chiefly of this type.

Even though the information a teacher may give is better organized and more accurate than can be obtained elsewhere, it had better be given in the form of supplementary reading or auxiliary lectures, designed to occupy, as few as possible of those precious and all too brief hours that teacher and student can spend together in the classroom. There is very little educational value in displaying before a student a series of snapshots of the law as it is (or is said to be) at any given moment, without adequate consideration of the rational and historic processes of legal thought by which these results have been achieved. I know it will be said that a teacher may rehearse these, too, in outline, at least, as part of the "information" he is giving—and, if he is doing his work artistically, this is, of course, true—but dissertation can never take the place of discussion as a means of securing a really adequate comprehension of the more important legal principles. So far as practicable, the student's time in school should be occupied with a study of those doctrines that have become what they are through historic development and reasoned processes of thought, which repay careful directed study, and this means in the main the case method.

The advocates of the second plan admit all of this fully, but suggest that, when a student has studied the more fundamental subjects somewhat thoroughly in this manner, he may more profitably devote the remainder of his time solely to the more important and difficult portions of a considerable number of the lesser courses than to a detailed study of fewer of them. To put the matter concretely, let us assume (1) that, by a purely informational method (whether by lectures or by printed material), the content of about fifteen of the lesser courses could be fairly covered in the time at the student's disposal after he has studied the fundamental courses somewhat thoroughly by the case method; (2) that the difficult and important parts only of about ten of the lesser courses could be studied using the case

method; and (3) that only six or seven of these courses could be covered by the case method in the same detail in which the fundamental courses are studied. This, I estimate, is just about what the alternatives amount to.

No doubt reasonable arguments can be made for any one of these views. In practice they will not be so sharply differentiated as they are in my statement of them. They will overlap more than would be indicated by partisan arguments for or against any of them. No sensible advocate of alternative No. 1 will insist on dealing didactically with *every* topic, even though it is quite clear that at least a few are specially unfit for this treatment; nor will any sensible advocate of No. 3 treat *all* the lesser subjects in the same detail as he would the fundamental first year courses. So we may here discount in advance a type of argument often advanced by those who assume that persons who differ from them in policy will necessarily administer their policies in the most extreme and unwise manner conceivable. But, allowing for the most reasonable pursuit of either of the three plans, the differences in both method and result will be substantial.

As already indicated I believe plan 2 to be better than plan 1, despite the greater *variety* of information that can be obtained by the latter. My experience, both personal and from observation, is that no legal doctrine of importance or difficulty can be adequately understood save by a careful study and analysis of its original sources. Being told all about it is no substitute for personal investigation of it, though it may greatly assist the latter. Much of the information ostensibly gained by the didactic method is not knowledge that is really usable in a pinch, or that can be relied upon to illumine novel or analogous situations, as can the more hardy won mastery that comes from a study of sources; and the supposed gain from a wider horizon of legal learning is thus largely specious.

There remains the objection that such a touching of the "high spots" only, in

the lesser courses, as is contemplated by plan No. 2, really means superficial work, as compared with a more thorough treatment of each course as a whole. Now "superficial work" is a relative term. Any one of our major subjects could be given more intensively with advantage, so far as that particular topic is concerned, were it not for the just demands of other topics, which require some pruning of them all. In fact, the amount of time actually devoted to standard subjects like Contracts and Torts differs a good deal in equally good schools. It varies all the way from about 90 hours to nearly 140 in the case of Contracts, and from about 70 to 110 in the case of Torts. It cannot fairly be said that these subjects are "superficially" taught, where the lesser number of hours are required. What really happens is that the simpler or less important parts of these subjects are omitted in some schools, in order to gain time for other subjects not so important as a whole, but *some* knowledge of which is believed to be more important than a more *detailed* knowledge of Contracts and Torts. The plan here advocated merely prunes, more ruthlessly, the lesser topics, with the deliberate purpose of devoting as much law school study time as possible to those matters of which it is most difficult to acquire an effective knowledge outside of a law school, whether they can be classified together into a moderate number of rather compact subjects or not.

The traditional division of the field of legal learning into law school "courses" being somewhat arbitrary, anyway, it is very arguable that a student is better equipped for practice who has mastered the difficult parts of a good many subjects than if he has both the difficulties and the details of a smaller number. It certainly seems easier for him to study the details of the lesser subjects by himself than it would be independently to master *both* the difficulties and details of those that he must otherwise omit altogether. The actual doctrines studied under this plan will be studied thoroughly, but they will be chosen for their difficul-

ty rather than for their continuity with each other. Of course this does not mean that topics will be strung together as they might be drawn from a legal grab bag. They will still be assembled into groups of relative similarity and divided into convenient units of length for teaching purposes; but the grouping of topics in some of the lesser subjects may be different from that now prevailing, and they will be shorn of details and relatively simple matters.

For the sake of completeness the student can be provided with syllabi and reading references to guide his own later or collateral study of the omitted parts, which are not to be taken up in the classroom. He will thus obtain case method discussion of the difficult parts of most subjects, and expert guidance for his independent study of the simpler and less important parts of the law. Such connections as may be necessary

for understanding related branches of a subject can readily be supplied without a substantial sacrifice of the plan. In practice, some courses will simply be shortened, while others will also be consolidated with those of related doctrines. Suretyship and Mortgage, Public Service Companies and Carriers, Quasi Contracts, and part of Equity may be mentioned as presenting obvious possibilities of consolidation. Perhaps some entirely new groupings of cross-section topics of the law, like Misrepresentation, Purchase for Value without Notice, Restraints on Dealings with Property, and so on, might emerge as the result of reflection and experiment. Just what should be done will be largely determined on grounds of convenience, but an intelligent and sympathetic effort along these lines seems to be an experiment in legal education of much promise and well worth making.

The Law School Curriculum as Seen by the Bench and Bar

By *CUTHBERT W. POUND*

Associate Judge, New York Court of Appeals

[Address delivered before the Association of American Law Schools at Chicago, December 29, 1922. The discussion following this address will be found on page 123 of this magazine.]

THE Association of American Law Schools asks the Bench and Bar to indicate their views of the methods of legal education adopted by the schools. The request is timely. So large a proportion of the training for the profession of law has become the function of the law schools that lawyers and judges have the keenest interest and concern in the lines along which legal education is now developing. Of 643 students trying the New York state bar examinations in June, 1922, for the first time, only 9 had no law school training, and, of the 9, 3

were college graduates. The betterment of such education, not only as the means of preparation for earning a livelihood, but also as the means of raising the general standards of the bar as leaders in the community, is a problem, not for the benefit of the individual student only, but for society.

The young lawyer should possess some knowledge of the rules of the law of the place and of their use as weapons of attack and defense; a habit of obtaining information, knowing both sides and preparing to meet objections; carefulness

and precision, courage and character, and a reasonable degree of self-confidence; the general ability to succeed in tasks, and the power to convey his thoughts to courts or juries in clear and convincing speech.

This broad and butter minimum of preparation was in the past often acquired by methodical, persevering diligence in a good law office, supplementing natural aptitude. (See "An American Law Student of a Hundred Years Ago," by Chancellor Kent.) Martin Van Buren says, in his "Autobiography," that he adopted at a very early age the practice of appearing as counsel before inferior tribunals, that his mind was thereby severely and usefully disciplined for the examination and discussion of facts, winning for him success over many others who had not succeeded so well, although they had acquired a sound education and stored their minds with useful knowledge. Without basic aptitude for the law, we may have men of culture, who know much law, but who are not lawyers. "Breadth of culture and liberality of mind" may make a happier man and a more useful citizen, but they do not necessarily make the lawyer a more faithful servant of his client. Character counts for more than culture. Much that goes to make up success at the bar rests on instinctive knowledge of the relation and consequence of facts rather than recollection of legal formulas. Nine-tenths of the problems of the practitioner are problems of fact, and the ability of the lawyer is measured largely by his success in dealing with facts. Lawyers who may fairly be said to be unlearned in the law still win notable success for themselves and their clients. Almost every community has a leader of the bar, who is recognized as a safe counselor and an efficient and conscientious champion of the interests of his clients, whose preliminary training has been far from classical in its character.

But, after giving all the weaknesses of a purely academic training due consideration, few, if any, would maintain that the minimum of professional readiness

based on the mere elements of a general education, should also be the maximum of professional aspiration. Many a self-made practitioner recognizes the handicap of insufficient preparation. Abraham Lincoln was self-taught, but he sent his oldest son to Harvard College. Law is a learned profession, and the law schools are not only convenient and efficient, but practically indispensable, agents for the proper care and training of its disciples. How well they serve the practical end, which must be the aim of all professional studies, it is my purpose briefly to discuss.

In the law school one breathes a very different atmosphere from that of the law office. "Free from all the details, chicanery, and responsibilities of practice," said R. H. Dana (Autobiography by C. F. Adams), "we were placed in a library (Harvard Law School) under learned, honorable, and gentlemanly instructors and invited to pursue the study of jurisprudence as a system of philosophy."

The law school wisely does not aim to develop business sagacity, or to train the student in "smart and snappy" action. I cannot say, either, that we gain therein much acquaintance with "the best that has been known and said in the world" (M. Arnold, "Literature and Dogma," preface), and therefore I am a skeptic as to the cultural value of law studies, except as they enable one to acquire some new points of view.

The law school should primarily aim to be an efficient agency for imparting legal principles to be used in the practice of law. To what extent does it accomplish this end? My first thought is that it sometimes expects too much from the average beginner, who is introduced at once to courses of study in various branches of the law, in each of which a specialist concentrates his energies in imparting knowledge. New York requires no preliminary educational qualifications for admission to the bar which may not easily be acquired by an eighteen year old school boy, and only 222 of the 645 students trying the New York bar examinations for the first time in

June, 1922, were college graduates. But the subjects as taught in the law schools are not elementary, and the daily volume of assigned work is considerable. Haste and superficiality may result. These are bad habits, which the law school should not tolerate. They follow the poorly trained student into his professional career, and are the crowning vices of the immature practitioner.

The proper purpose of law school training is not only to impart knowledge, but also to develop in the student a disciplined and active mind. If it fails in either task, it leaves its work incomplete. "All a law school can accomplish," says Langdell, "is to train the student in principles and methods, and teach him how to look up a case." To some this sole aim seems an impractical one. They urge that the law school fails in its duty when it fails to teach the whole body of law as it is to-day; that the law school should "make sure that those who go forth with degrees have been trained in [all] those things essential to the intelligent practice of the profession" (Huffcut, presidential address before Ass'n Amer. Law Schools, 1904); that this result may be largely accomplished by giving the fundamental subjects by rigid disciplinary methods and other subjects by methods having information as their more immediate end. (For a clear statement of what may be said against optional courses, see Woodruff, "History of the Cornell Law School," 4 Cornell Law Quarterly, 91, 105.)

The lecture or summation of the day's work, on the one hand, the discussion between teacher and student on the other; the imparting of knowledge on the one hand, the stimulation of powers of thought on the other—these methods go together in a well-balanced course of legal instruction.

The theories of law teaching adopted by the schools may be grouped under three heads: First, the theory that law teaching should have no avowed object except the development and discipline of the mind of the student. Under this theory information is incidental. Secondly, that its object is primarily to in-

still information, and that mental discipline is a by-product. Thirdly, that while mental discipline and the legal attitude must be of primary consequence in teaching fundamentals, yet some courses, or at least parts of some courses, may well be taught by methods candidly instructive rather than disciplinary. Considering the large and increasing number of subjects having a proper claim for attention, and feeling the limitation of time to three years, it would seem that a careful study of this problem might result in a more general recognition of this third theory of legal instruction.

Moreover, judges and lawyers should be introduced into the law school curriculum with discretion. The tranquility of the student mind should not be unduly excited by extraneous novelties, but the occasional appearance of the doers of the word among the sayers thereof should advantage both the schools and the bench and the bar. To leave the student alone with the teacher may produce lawyers too gently and theoretically trained for their own future usefulness. Practical judges and lawyers are likely to consider it rather important that some highly specialized courses like Patents and Admiralty should, in view of the crowded curriculum and the advantage of a fresh point of view be taught by the lecture method by nonresident specialists, rather than that the student should be graduated in ignorance of these subjects. Doubtless, the machinery of the mind should not be clogged with facts, but a judge of great learning, experience, and acumen, like Hough, covering briefly, with the aid of a printed syllabus, a course like Admiralty, unquestionably goes far towards paying his debt to his profession when he states first principles to law students. The printed book is to such a course as a movie to the spoken drama. A soul is breathed into the subject, and the dead matter of the cases is cut away. And when Judge Cardozo, one of the most philosophic of American or English judges, talks to students on the nature of the judicial process, he reveals the judicial mind in

action, and brings his hearers, by a short cut, to a position of vantage, which has taken him a lifetime to discover.

Technical professional efficiency, the production of graduates able to practice law, might indeed be an ideal of the law school; but its accomplishment within the limits of an undergraduate course seems well-nigh impossible. The principal difficulties in the way are these: First, the law teachers frequently lack the fund of practical experience, which the law office supplies, and the law school can only approximate; second, the time of the student is better spent in the study of legal principles than in the acquisition of practical details which are worked out more accurately in actual practice than in the classroom; third, the law student is primarily a scholar; the office clerk is primarily an apprentice; as the law office is a poor place for the scholar to study effectively, so the law school is a poor place for the apprentice to master the technic of his craft; fourth, four years, or even five, would be too short a period to cover the whole field of preparation with the same thoroughness that is given to the fundamental courses.

Law and the practice of law have grown prodigiously intricate and complex. The relation of law to business has become more intimate. Specialization is no longer unusual. Authoritative text-books are few and their authority is fleeting. Digests are as voluminous as the reports of a century ago. Judicial opinions, vast in number, sometimes perfunctory and often inconsistent, are the raw material of the craft. The common law has become a shifting thing. Whole pages of the law of master and servant, sales, negotiable instruments, carriers, and constitutional law are blotted out in a day by legislation or by constitutional amendment. The concept of the law as a complete system of rules, once delivered to the judges as the Ten Commandments were to Moses, has become as rudely shattered as were the tables of stone.

I venture to say that under these conditions the stimulating law teacher was

never more valuable than now, and that the general standard of usefulness of law school courses and instruction was never higher. The venerable figures of Blackstone and Kent and Parsons and Story, with their comprehensive treatises on elementary law, summing up the development of the time and furnishing a fresh starting point, have passed away, and their places have been taken by a large number of professors, highly trained, as other college instructors are, for the work of the teacher. They, out of the abundance of reported decisions, compile casebooks, edit texts, write articles and produce books of their own, but I believe their most useful function is performed in the classroom in personal contact with the student.

Although law is taught to a high degree by the study of cases, it is to the law teacher who looks at the law as a whole, and who works with deliberation, rather than to the judge, who looks at a fragment with comparative haste, that we must turn for the training of students in the broader processes of legal reasoning. But we should not be impatient with the law schools if they fail to graduate men who may, without much further experience, faithfully serve their clients with sound knowledge and the power to reflect, coupled with the ability to accomplish results. A law school is not a factory and a lawyer is not a standardized mechanical product, like an automobile. The law schools can give men understanding, but they cannot give them experience, intuition, or the power to acquire and serve clients.

Some of the older members of the bench and bar are still at times inclined to condemn the work of the law school and the law teacher. They say that the instruction is impractical, because it does not fit a man to vacate an attachment or to confute a witness; that it is out of date, because it goes back to first principles, instead of turning at once to the most recent decisions; that it is "high-brow stuff," because it is above the comprehension of the immature mind; that it is undemocratic, because entrance requirements are unnecessarily high. They

refuse to yield to the suggestion that any law school can prepare any law student to advise clients and practice law.

Criticism is wholesome when it is just. Vague impatience is not as good. It is, therefore, well to ask several questions in order to come directly to the point. Are the best law schools weak or strong? How may they be improved? These questions have to do neither with entrance requirements, length of course, nor methods of instruction, whole time or part time, day or night courses, which in themselves present problems of grave consequence. Here we deal only with the relation of the average high-grade law course, taken with fair application by a student of adequate preliminary education, to the actual preparation for the practice of law.

I. *Is the ordinary law school curriculum adequate?* The ordinary law school curriculum contains the staple courses, not preparatory subjects of history, economics, and government, science, mathematics, and language, nor graduate courses in Roman law, advanced jurisprudence, sociological, systematic, historical, and critical, philosophy of law, legal history, and comparative law, or narrow specialties, such as mining law, the law of banks and banking, and admiralty. The normal period of legal education is a period between general preparation and advanced study. It should not be confused with either. Contract, tort, agency, property, criminal law, equity, and trusts, corporations, public and private, negotiable paper, domestic relations—these subjects alone, when taught in proper relation to procedure, form a substantial body of law, and furnish needed discipline abundantly, even to the layman. "For mental training, no matter what a man's work in life might afterwards be, nothing [is] was equal to the study of the law," says Senator Lodge in his "Early Memories."

The time given to such courses is fairly well proportioned. A preliminary course in elementary law would enable a student at the beginning to obtain a knowledge of first principles, as recognized and applied by the state in the ad-

ministration of justice, which he might otherwise fail to acquire. International law, constitutional law, and the science of legislation should be taught fully and seriously, so that the student may comprehend that law is not wholly a matter of *meum et tuum*; that the changing will of the state is a more powerful factor in determining the rights and duties of individuals than any of the principles of private right with which the common law abounds, and that even the basic principles of common right, as understood by one generation, may become obsolete in the next. "Law is no more nor less than just the will—the actual and present will—of the actual majority of the nation. The majority govern. What the majority pleases, it may obtain. What it ordains is law. So much for the source of law, and so much for the nature of law." (Rufus Choate, Address before the Harvard Law School in 1845, thus stated for the purpose of confuting the proposition.)

Other topics, in addition to the staple courses, may well be introduced, not as being of equal importance but as being an essential part of legal instruction. Any lawyer may be called upon to deal largely with problems of administrative law before public service commissions, civil service commissions, workmen's compensation boards, taxing boards, and other quasi judicial bodies. He may also have to do with the drafting of legislative bills and the promotion of legislation. He should at least have enough light to show him the path, even though the instruction does not further guide his footsteps, and to encourage him to read for himself, even though no required course is given. The field of taxation alone offers abundant opportunity for the specialist in income, inheritance, corporation, and other forms of taxation. Boards of arbitration and other forums for the adjustment of controverted questions outside the courts, while assuming a nonprofessional aspect to the world, actually call for the assistance of the trained lawyer. But much of this learning is ephemeral, and new business situations and commercial and industrial legal

controversies constantly give rise to new problems. A sense of proportion puts such courses in their proper place. - The student must be reminded that, although he draws much of his law from the study of reported cases, the proper function of such cases is to enable the attorney to keep his clients out of court rather than to breed further decisions in further litigated cases. However much he learns, he gathers but a few pebbles from the shore of an unexplored ocean of infinite possibilities.

II. *What may the law school accomplish in teaching procedure, including evidence, pleading, and practice?* The average judge or lawyer condemns the law school for failure to teach procedure, or where the attempt is made, to teach it effectively. The attempt not infrequently resembles the attempt to teach the laws of auction bridge without cards, card tables, players, or stakes. Procedure is a part, and an important part, of the law. I do not disparage the helpful work that has been attempted in some of the law schools, which have undertaken to give ample time to the task. Much is done in the time given, but more time is required than may be given in a three-year course. (McCaskill, "Methods of Teaching Practice," 2 Cornell Law Quarterly, 299.) Evidence and pleading may in a way be taught dogmatically. Pleading is the science of the clear and concise statement of facts with legal sufficiency. Evidence teaches the art of proving one's case and keeping one's opponent within proper bounds. Evidence is taught by rules of exclusion rather than by methods of proof. The whole subject is easily made abnormally technical and difficult. Practice however, the form and manner of conducting and carrying on actions, may be learned "to a high degree of efficiency" only by practice, by office experience. "Multa exercitatio multo facilius quam regulis percipies."

The whole subject of practice deals with law in action and law school instruction is relatively static and thus an artificial thing. If practice is to be taught comprehensively, time should be

given to the study of printed records of cases on appeal. That is the work of the seminar with a few men rather than of the undergraduate classroom. The law school is not, in my view, the best place to learn how to draw legal instruments, collect judgments, or prepare cases for trial. Yet the student must have some preparation for these practical things. While practice should not be ignored in the law schools, I lack faith in their ability to cover the field thoroughly, not questioning, however, the power of the teacher to put much substance into his courses, if he possesses it himself. The lawyer deals with practice piecemeal. He does not attempt to learn the subject comprehensively. He draws on his materials as he needs them. The law schools, on the other hand, necessarily deal with abstractions, and not with actualities, as a doctor might in prescribing for a hypothetical patient on a general statement of supposititious symptoms.

The rules of practice in their essentials are, moreover, local and not general, technical and not reasonable. To teach "broad principles" of practice seems a wasteful expenditure of time, if the end is to qualify the student for the practice of the law. Practice may be taught for other ends—to train in readiness, to discipline the mental faculties, to interest and amuse. As a practical subject, it means New York practice, or federal practice, or some particular kind of practice, not a system which exists nowhere outside the law school itself. Furthermore, practice instruction unduly emphasizes the litigious branch of the law. Instruction in business administration, corporate finance, accounting, and kindred subjects is almost as essential in connection with a law school course as are the moot trials and practice courts. Many a successful lawyer has little occasion to know or apply the procedural details of a civil action, and the volume of litigated business yearly grows relatively less in the affairs of the average law office.

III. *Should the law school teach local law or general legal principles?* The na-

tional law school teaches "general legal principles," which are assumed to be uniform, although state rules vary. The university law school must have vision to look beyond the vicinage. The local school is a useful, but pent-up and less pretentious, younger sister. The written and unwritten law of the particular jurisdiction in which the student expects to practice may, as in the state of New York, be both distinctive and voluminous enough to develop a body of legal principles of its own, which may be taught in local schools and must be acquired by the prospective practitioner. If the school aims properly to prepare students for admission to the bar of the jurisdiction, it should insist on special attention to the local statutes and the recent decisions of the court of last resort. General legal principles are of little consequence when it comes to advising a client, if they conflict with a statute or a recent decision which may be assumed to control. Yet, without a sound training in fundamentals, a lawyer is a timid creature, helpless, unless he has "a case in point." Ultimate conceptions of substantive law are the things that count. "It is very easy to exaggerate the use of acquiring a knowledge of the existing rules of law." (Markby, "Elements of Law," Int. p. xi.) The student should be taught to be bold, but not too bold, in attacking anomalous doctrines of the local court. The day should come when the rule will be uniform. The school should candidly state whether it aims to teach general principles or a definite body of local law, and then should be judged for what it attempts.

An average student who has had three years of proper training in a law school has probably had enough of that kind of work. "Vita brevis." The local law may be left to the period of office clerkship. If he is a college graduate, or if he takes four years of law school work, the state of New York excuses him from a period of clerkship in a law office; not from any well-settled notion as to the equivalency of the longer period of school work, but as an encouraging ges-

ture to the student who seeks to lay broader the foundation or rear higher the superstructure than the letter of the rule requires. College graduates have cheerfully conceded that they were not fit to practice law until the completion of a year's clerkship in a law office. The New York State Bar Association has gone on record in favor of a rule that all applicants for admission to the bar should be required to serve one year of clerkship. (Proceedings, 1921, pp. 253-257.)

If after three years of general training the student can grasp with readiness the significance of facts stated to him as the basis of a legal opinion, can go to the heart of the thing, rejecting emotion, guesswork, and law taken for granted, classify the problem in its proper group and subdivision, recall possibly the leading case in point, and then begin the study of the law of the case intelligently, the law school has done its share. Natural and acquired ability and adaptability to handle another's affairs, the mechanics of the profession, what to do and how to do it, the presentation of facts by witnesses, the alertness with which to defend and attack—for the development of these indispensables the present curriculum of the law school has no place.

When the bench and bar direct their criticism toward the law school, they should not overlook the relative failure of preparation for the bar by way of the office clerkship. The law school does something definite. It may do its work in a good-natured and tolerant way, compromising at times, perhaps, too much with indolence and indifference. It seems to be taken for granted, also, that a certain number of deserving students who will never be sought after as safe counselors should be graduated from schools and admitted to the bar. The degree of LL. B. at least means that for a certain number of semester hours the student has been exposed to the wholesome influence of the law. In this day, preparation through an office clerkship is an unmeaning term. The old-time law clerk, who followed every de-

tail of his preceptor's work on a case, from retainer to collection of judgment, who fashioned his career as a lawyer on such a model, who interviewed the witnesses and prepared the brief, had an intensive knowledge, narrow though it was, of the law of a given case. The general practitioner once taught his student, companion and familiar friend, a great volume of practical law. A present-day practitioner commonly would assume little responsibility for the general equipment of his student clerks.

If bench and bar begin to criticize, they may consider the class of student, unfortunately not unknown, who graduates from law school without attending a trial, who has read no law when he could sponge the abstract of the day's cases from his more diligent fellows, who has made no attempt to acquire knowledge except for the purpose of passing an examination. Not lazy enough to be a total failure, nor unethical enough to be in danger of the judgment, he lacks the high regard for the duties and responsibilities of his calling which is one of the traditions of an honorable profession.

There is a short and easy road to the bar, and a long and difficult one. Those

who travel the latter road are not invariably the better lawyers, yet the sum of individual accomplishment as shown by students' notes in the law school journals is probably higher to-day than ever before. A poorly equipped student may become in a commercial or popular sense a successful lawyer, but I observe that Phi Beta Kappa keys not infrequently are worn by members of the Court of Appeals bar.

The law schools fail, if it may fairly be said that they do fail, when they fail to envisage their proper aim. They do not achieve a full measure of success when they assume wholly to fit men for the practice of the profession of law. The ability to obtain clients, to understand their problems and to make things happen for them, so that professional efforts shall justly secure an adequate reward, distinguishes the real lawyer from any mere law school graduate. The purely academic law school, however brilliant its accomplishments in other fields, falls short, I think, when it sacrifices everything to intensive training in selective courses in substantive law, and refuses even to attempt to narrow the gap between the law school and the law office.

An Inquiry Concerning the Functions of Procedure in Legal Education

By *EDSON R. SUNDERLAND*

University of Michigan Law School

[Address delivered before "Round Table Conference" on Remedies at the annual meeting of the Association of American Law Schools in Chicago, December 29, 1922.]

PROCEDURE has always been the *bête noire* of the law school teacher. No other subject has developed such divergent opinions or such endless debates. None recurs with such periodic frequency and in no field of legal pedagogy has discussion seemed so barren of results.

Three different general sessions of the Association of American Law Schools during the last ten years have been devoted largely or wholly to the subject of teaching procedure, and yet no substantial progress seems to have been made toward a standardized scheme of

treatment. Individual teachers and schools have their individual views and policies, and they go their own ways little affected by the views and policies of others.

But the very insistence with which the problem intrudes upon us suggests not only that there is a widespread and instinctive appreciation of its importance, but also that some solution is possible if we only work at it hard enough. And this brings up the question whether we have ever adequately analyzed the functions which procedure should perform in legal education. Unless we know what goal we are working toward our progress will be slow enough. But if we can determine what definite purposes are to be realized by teaching procedure, we will be better able to assign to it its true educational values and to place it in proper relation to the rest of the work of the law school. Perhaps we have gone at the problem in the wrong way. Until we know why it should be taught we shall get nowhere in discussing how to teach it. The end to be reached is the best and indeed the only guide to an adequate method.

For this purpose, therefore, I purpose an examination into the reasons why it is desirable that procedure be given a place in a law school curriculum, in the hope that such an inquiry may pave the way for a more satisfactory solution of the problems of pedagogical method and emphasis.

II.

The most obvious purpose in teaching procedure is to equip the student with the technique which he will be called upon to use in practice. The discussions of the American Bar Association in its section on Legal Education, and of the Association of American Law Schools, have centered about this phase of the subject. Its value has been given different ratings, but has nowhere been wholly denied. The overwhelming opinion is that instruction in procedure is advisable as a preparation for practice within the limits prescribed by two conditions, viz. the development of feasible methods of

teaching it and the capacity of a crowded curriculum to hold it against the pressure of other subjects.

As to methods of teaching it is clear that no difficulty occurs with pleading. The case system has absorbed the subject with perfect ease. The principles of trial practice are equally well adapted to the case method. Two casebooks devoted to this subject are in use in American law schools, and after ten years of experience with one of them, and almost as many with the other, it can be stated as a demonstrated fact that trial practice can be taught as easily and successfully with case material as any subject in the law school course.

Appellate practice has not yet been taken up as a law school title, largely, I think, because of the lack of a casebook. But the subject is ideally fitted to the case method of development. Its fundamental problems are quite free from the restrictions of a statutory body of law. The various methods of appellate review, such as writ of error, appeal, certiorari, mandamus, prohibition and certificates, are well defined remedies and proceed upon definite theories which are almost everywhere operative. The question, What is appealable? is one which carries the student into broad questions of appellate policy and develops an accurate sense of the real nature and purpose of appellate review. Only incidentally do the cases turn on local statutes, and even here there is a remarkable similarity in American statutory enactments and a constant recourse to fundamental principles exhibited in their application. The proper parties to an appellate proceeding may be as profitably investigated as parties to actions at law or in equity. The manner and purpose of laying a foundation in the lower court for an appeal, the requisites and the effect of a transfer of the cause, the purpose of a supersedeas and the scope of its operation, the assignment of errors or grounds of appeal and the requisites and preparation of an adequate record on appeal, the scope of the review, and the whole doctrine of harmless or prejudicial error, the effect of affirmance, modifica-

tion, and reversal, and the character of the proceedings in the lower court after remand—all these matters are full of vital interest to the prospective practitioner and are capable of admirable case-book treatment. They develop fundamental conceptions of judicial administration, and only through a scientific study of appellate theory can one intelligently prepare and effectively carry out proceedings for the review of a cause.

Further development of procedural study, beyond pleading and trial and appellate practice, is doubtless entirely feasible from a teaching standpoint. The nature of judgments and decrees, direct and collateral attack upon them, and their force and effect in bar or estoppel, are extremely important subjects. And it is probable that a study of methods for enforcing judgments and decrees, by execution, attachment, garnishment, and contempt, would prove to be a valuable extension of the field of law school work. All of these additional branches of procedure involve the same pedagogical problems as those which have already been introduced into the school curricula. Material on the study of appellate procedure has been so far worked out that within a year one law school at least will probably be teaching the subject by means of cases. From the side of methodology the theoretical objections have been wholly disproved, and the practical obstacle due to lack of available casebooks is quite likely to disappear in the not distant future.

To what extent the practice court should be resorted to will perhaps continue to be a mooted question. But it is a minor problem. As between casebooks and cases in the practice court, the individual preferences and characteristics of teachers will have much to do. Probably both should be used. The monotonous nature of continuous casebook study is tending to make students go stale in the latter part of their course, and the practice court furnishes a most welcome and refreshing change, irrespective of its intrinsic effectiveness as a method.

The other condition already mentioned,

viz. the capacity of a crowded curriculum to admit work in procedure in the face of the immense pressure of substantive courses, is more complex. But it is clear that there is room for all courses which are deemed sufficiently important, so that the question is really one of relative value. Value depends largely on function, so that this phase of the problem fundamentally involves the whole subject of the present paper. The value of procedure as direct equipment for practice cannot be sharply separated from its value for the other purposes which will be presently discussed, but certain suggestions may be derived from available data. It would seem fair to assume that the general value of a subject as direct preparation for practice would be roughly proportional to the volume of actual litigation upon that subject. Such volume may be measured by the amount of space devoted to it in the general digests. This method of computation shows the following interesting facts:

Three procedural subjects which are given practically no attention in most American law schools, viz. trials, appeal and error, and judgments, demand in the aggregate more than twice as much attention from courts and lawyers as the five typical substantive subjects of bills and notes, contracts, corporations, sales, and trusts, to which American law schools commonly devote about one-quarter of the hours required for the law degree. If the same proportion holds for other substantive subjects, these all but neglected procedural subjects develop about half as much actual difficulty in practice as the whole body of substantive law studied by any given student in his entire law school course. If a certain class of diseases made up half the suffering of the human race, no reputable medical school would attempt to justify a system of medical education which practically ignored them all.

And another significant fact may be drawn from a study of the digests, and that is, that the vast amount of litigation over questions of procedure is not showing any sign of abatement. In the

discussion of the subject of teaching trial practice which occurred at the meeting of the Association of American Law Schools in Montreal in 1913, one of the speakers suggested that the real reason why that subject had never found an undisputed place in the law school course was that it was an ephemeral subject, which had had its day and was about to pass out of existence. He said:

"Trial practice, in the sense that we have had explained to us to-night, was developed in the United States after 1850. It reached its zenith about 1875, it began its decline about 1900, and I undertake to say it will be steadily of less importance in the development of our law in the future."

Now the data from the digests show no such historical development, but rather a steadily rising practical importance. As compared with the five substantive subjects above named (bills and notes, contracts, corporations, sales, and trusts) trial practice showed 28 per cent. as much litigation in the period from the beginning down to 1896, 40 per cent. as much from 1897 to 1906, and 77 per cent. as much from 1907 to 1921. In other words, the relative amount of litigation on trial practice during the last fourteen years has almost doubled as compared with what it was in the previous ten years. The same data disclose similar results as to the three procedural subjects mentioned (trials, appeal and error, and judgments). In the period prior to 1896 these three procedural subjects furnished 110 per cent. as much litigation as the five substantive subjects already named, from 1897 to 1906 they furnished 143 per cent. as much, and during the last fourteen years, from 1907 to 1921, they furnished 234 per cent. as much litigation.¹ Such figures, while perhaps to be taken as approximations merely, can hardly be ignored by

those who are charged with the duty of preparing students to enter into the practice of the law in an unutopian world. An admission by the law schools of their inability to substantially increase their contribution toward making procedural machinery function more efficiently, would be a confession of educational bankruptcy.

III.

A second purpose to be served by teaching procedure arises from the fact that procedural reform, which is always needed but never so badly as at the present time in the United States, is almost wholly dependent upon a bar educated to want it and to know how it can be obtained. Legislatures cannot deal with the technique of procedure, except through the small group of lawyer members, who usually constitute the judiciary committees. And outside pressure for such legislation, which is an almost indispensable prerequisite for the passage of any act for general betterment, must come, if at all, from the lawyers practicing in the jurisdiction. Now, lawyers as a class tend not only to be uninterested in new methods for administering justice, but they are more than likely to actively oppose them on general principles of policy. Why repeal the technique which they have acquired at so great a cost, and force themselves to learn a new one? The lawyer feels a vested interest in the rules of procedure which he has learned to use. He is a thorough-going conservative in this field by instinct and training.

This is entirely natural in view of the monopolistic character of judicial administration. If doctors of medicine practiced under a system which necessarily enforced absolute conformity to established technique upon every member of the profession, we should soon see a slowing down of improvement in medical practice. It is competition in methods which gives the stimulus for the development of new ones. No such competition exists in the procedural field of the law. All lawyers must use the same rules. The only opportunity for competi-

¹ Figures are based upon the material appearing under the respective heads in the Century Digest, Decennial Digest, and those average annual volumes of the American Digest appearing in 1907, 1914, and 1921, except that the material on trials and appeal and error, illogically digested under Criminal Law, has been shifted to those subjects, where it properly belongs.

tion is in the use of the old rules, not in the discovery and employment of new rules. Professional ingenuity, therefore, is driven to realize itself through clever refinement in manipulation of the technical system currently in force. This develops a barren formalism, which kills the spirit of progress. A small minority, with a vision transcending the rules around which their professional lives are forced to revolve, feel that legal procedure is out of touch with the changing social order; but they are for the most part only voices crying in the wilderness.

Furthermore, American lawyers are a hard-working body of men, crowded with a thousand duties and responsibilities, with little leisure or nervous energy, even if they felt the inclination, for keeping in touch even with those improvements in judicial administration which have been so systematically developed in British dominions, or which have sporadically sprung up in various parts of the United States. Only a small minority take or read the law magazines. A somewhat larger minority attend Bar Association meetings, state or national, and pick up a few suggestions as to improvements in administrative methods. But when we consider that it is the most enterprising and progressive members of the bar which usually attend such meetings, and then observe how few even of that select group take any active interest in procedural reform, and how many deprecate any substantial departure from the established rules, the wonder is that the system ever improves at all.

It is quite apparent that the professional duties of American lawyers cover the two different functions of making the procedural law and using it in practice. If the law schools are to educate for the profession of the law, they must definitely recognize both these functions; and as between the two their duty to educate the on-coming generations of lawyers in the field of procedural reform is the more pressing, for a lawyer can be at least partially educated in practice at the expense of his clients and the public, after he gets into his professional work,

but there is not one chance in a hundred that he will ever develop a real interest or a sound understanding concerning the specific needs and the practical possibilities of procedural reform if left to his own devices. The sorely tried public is quite discouraged over the present methods of judicial administration. They blame the bench and bar. Much of that blame belongs to the law schools. If the schools should seriously take up this great work of laying a foundation for radically improved legal methods, treating it as a duty and privilege second in importance to no other branch of legal education, they would win both the gratitude and confidence of the public.

The law schools are fully equipped to do this work. Their libraries contain the material necessary for it, and their present curricula can absorb it without substantial readjustment. It should not be conducted as a special seminary course for a few advanced students, but should be brought to the attention of every student who goes through the school. The courses for teaching procedure as currently used in the courts should be employed at the same time for the broader purpose of exhibiting possibilities of improvement. Every procedural doctrine should be subjected to constructive criticism in regular course of instruction. The value of every rule should be tested by its tendency to produce desirable or undesirable results. The causes for dissatisfaction with the operation of rules should be constantly sought, and fundamental misconceptions ruthlessly exposed. No rule should be accepted at its face value merely because it bears the seal of conventional approval. Indeed, procedure should be taught as a mere mechanism designed to reach certain results. It is valuable solely as a means to an end. No rule of procedure should be considered as having any inherent merit whatever. Every one should be studied with reference to two questions: (1) What administrative purpose is it designed to serve? (2) How far does it succeed and how far does it fail in that purpose? Such a study will bring up a third question in each instance, namely:

What changes in the old rule or what new rule in its place will produce the maximum of advantage while carrying the minimum of inconvenience? In this way procedure will not only be presented to the student as the concrete form under which jurisprudence now realizes itself in action, but the basic nature of the demands made by the law for a workable system of self-expression will be revealed. Fundamental procedural principles will formulate themselves, through such a study, and the resources and possibilities of judicial methods and court organization, available for the service of society, will be exhibited. The study of procedure, based on the familiar case material, will therefore be both anatomical and physiological, developing both the structure of the currently employed system and its functional limitations, thus forming a solid basis for building up a rational and practical theory of legal prophylaxis and therapeutics.

Lawyers become so accustomed to the forms which they employ that they look upon change as heresy. Principles of law and rules of procedure, being equally operative in the course of the administration of justice, tend to fade into one another and to assume an identical sanctity. Respect for law becomes deference for method, and this produces stagnation in judicial administration. The deadening result can be defeated by the active efforts of the law schools. They must make their students procedural iconoclasts, having no final respect for any rule of practice which is unable to prove its value as a convenient means to a legitimate end.

The strategic strength of the law school position in this field is perfectly well known to all who have given it any thought. And the resultant duty is clear. As Chief Justice Winslow, of Wisconsin, said to the American Bar Association in 1912, in an address on the Relation of Legal Education to Simplicity in Procedure: "If we are to have simplified procedure which shall accomplish the desired results, we must first have a scientifically educated, as well as

a high-minded, bench and bar to administer that procedure. Inasmuch as legal education is now obtained almost exclusively from the law schools, the question how we are to obtain such a bench and bar seems in popular parlance to be 'up to the law schools.' * * * Every law school should give its students a course in scientific simplified procedure, or 'ideal procedure,' if you choose."²

If the law schools seriously take up this problem they will accomplish far-reaching results in removing one of the chief causes of dissatisfaction with the administration of justice by the courts.

IV.

Beyond the two purposes already considered there is another which is more important than either, although less obvious. It relates to a problem lying at the very foundation of the administration of justice, namely, professional ethics. This has always been a critical point of contact between the laity and the bar. As far back as our literature runs we find that the people have been keenly dissatisfied with the moral attitude of the legal profession. They are as suspicious of the lawyer's motives as they are critical of his methods, and often feel that technique is only a cloak for iniquity.

Even so kindly a soul as the Quaker, Jonathan Dymond, writing a book upon the Principles of Morality, found it necessary to devote a chapter to the Morality of Legal Practice, and in explanation, said: "If it should be asked why, in a book of general morality, the writer selects for observation the practice of a particular profession, the answer is simply this: That the practice of this particular profession peculiarly needs it. It peculiarly needs to be brought into juxtaposition with sound principles of morality."³

Now there are lawyers—too many of them—who do not possess the moral character necessary to perform the exacting duties and resist the great tempta-

² Proc. Am. Bar. Ass'n, 1912, p. 743.

³ Essay II, c. V.

tions of legal practice. Moral qualifications for admission to the bar are paramount; and the rising tide of opinion that higher educational requirements are necessary is to a very large extent due to the feeling that only the morally sound will have sufficient strength of character to undergo so severe a training. Disbarments prove the presence of the morally unfit, and doubtless such proceedings are far too seldom brought. But I do not believe it can be proved that the standard of morals among men who practice law is lower than among men in other professions or in business or politics. It probably is higher, as it ought to be. Nevertheless I think it is quite evident that the public is convinced that there is something about the professional actions of lawyers which is peculiarly unsatisfactory to the moral sense. So prevalent a belief, arising from a long and intimate experience, may be assumed to rest upon substantial evidence. Is there, then, something about the law itself which draws men who practice it away from the kind of conduct which the public considers moral? I believe there is, and that the training given to lawyers and the habits of mind produced by that training are primarily responsible for the apparent lack of moral quality shown in the administration of the law. The corrective lies in an adequate appreciation of the true function of procedure, as I shall try to show.

Now the law consists of two distinct and almost independent sets of rules or principles; one making up the field of so-called substantive law, the other the field of procedure. The first group is primary, and constitutes an essential part of the structure of society; the second is secondary and derivative, and merely serves to make the first operative. The first group is relatively fixed, and only changes with the slow evolution of social relations; the second is relatively flexible, having no universal quality, but being the mere manifestations of opportunist ingenuity. To radically revise the first would mean a social revolution, but the second could be totally reorganized at a moment's notice, without causing a

tremor in the social structure. While the safety and security of civilization may be said to require stability in the first group, safety and security can be realized only by elasticity in the second.

The distinction here made is not absolute but only relative. The principles determining rights and liabilities, while immediately fixed, are ultimately subject to change as social conditions make new principles necessary. Law is undoubtedly a means to an end, and no stage in its development can be called final. Nevertheless this distinction between the substance of law and the form of its operative activity is valid. If we say that real property has a necessarily fixed location, while personal property does not, we speak inaccurately, for no piece of land occupies the same position in space for two consecutive moments. And yet for terrestrial purposes the distinction is sound. So, as a practical matter in dealing with law, we may truly say that the principles of substantive law, as compared with procedure, are fixed and constant, and that the preservation of the status quo is the highest duty of the legal profession; and we may say with equal truth that the rules of procedure, as compared with the substantive law, are variable and in need of perpetual revision, and that the legal profession owes no duty to preserve them, but only to make them useful agencies in the service of society.

The lawyer must therefore develop different attitudes toward the law of rights and duties and the law procedure. As an officer engaged in the administration of the law, he must apply the first with universal impartiality, treating it as the established and true basis of society, and must regard its enforcement as a socially necessary end in itself. Procedure, on the other hand, he must consider as a mere means whereby such enforcement can be effected in the most efficient and beneficent way. He must recognize the vital difference between the rules by which society adjusts its relations and the rules by which judicial machinery operates. In the procedural field the lawyer is concerned with a mech-

anism in which society has no interest, except in its tendency to produce results in harmony with social values. In the substantive field he is concerned with the ultimate merits of controversies as determined by the fundamental law, and this involves an exact knowledge of that law and a precise application of its principles to the cases which arise. In this field the lawyer has a definite task, in which society has given him no freedom of action. Generally speaking, it is not for him to pass upon the wisdom or moral quality of the law. That is a legislative matter. In case of doubt as to what the law is on a given subject, he may, of course, urge moral advantages in one rather than another view; but this is a comparatively rare occurrence. In the great bulk of his professional work he is concerned with the purely intellectual task of discovering what the law is, and the equally intellectual task of applying that law accurately, and impartially, coldly, to the facts before him. A case either does or does not fall within a certain rule of law. To determine this question he employs all the skill of a trained logician. He marshals analogies; he points out distinctions; he analyzes groups of facts and exhibits their logical relations; he refutes alternations by reducing them to absurdities; he builds up series of syllogistic equations. But in all this he passes no ethical judgments. He is concerned not at all with the moral values of the acts involved, but solely with their legal values, and legal values of facts are as far removed from morality as are the mathematical values of spaces and numbers, or the chemical values of mineral elements, or the physical values of ether waves. Like the scientist he is not acting immorally, but non-morally—outside the moral field.

In the field of procedure, on the contrary, the lawyer is constantly concerned with ethical problems, for that field is the field of professional conduct. Here the question is not what is the law, but what shall I do. Shall I use a *capias* and arrest the defendant, or a summons and merely give him notice? Shall I

annoy my opponent with an attachment? Shall I drag him away from home into a foreign court? Shall I hide my real defense under a general demurrer or a general issue? Shall I ask for a continuance, move for a directed verdict, request certain instructions to the jury, move for a new trial, assign certain errors? All these questions are to be answered by giving moral values to the alternatives of conduct. There are conflicting interests, as in every moral problem. The lawyer must consider his client, but need not wholly forget himself; he must remember that his opponent has a right to fair treatment, and that society has a large stake in the successful operation of its judicial agencies. Which elements shall, in the particular case before him, have controlling force? On what basis shall he compromise the inconsistent tendencies?

It is quite clear that he cannot justify his conduct by showing that he did nothing positively forbidden under the doctrines of procedure in force, for the rules of procedure have no independent value, but must be deemed good or bad solely in relation to the ends to be reached by them. An automobile has no moral value, but may become an agency for good conduct, as when it carries a physician to a patient's bedside, or for bad conduct, as when it aids a criminal to escape. And the driver, when charged with immoral practice, could hardly defend on the ground that he did nothing contrary to the mechanical rules for the operation of automotive vehicles. So a lawyer in prosecuting a case must answer for his conduct, not by showing that every proceeding which he employed was a well-recognized and legitimate mechanical process for conducting litigation, but he must go further and demonstrate that he employed them for morally justifiable purposes. A distinction must be drawn between the use and the abuse of legal procedure, and this distinction is strictly moral. Every step taken presents the legal problem of utility and fitness, and the ethical problem of rightness or goodness.

There can be no doubt of the moral

content in procedural acts, for they all entail consequences affecting others. Thus Dewey says: "The moral quality of any impulse or active tendency can be told only by observing the sort of consequences to which it leads in active practice."⁴ And again he says: "Consideration of consequences of the act in the way of effect upon the happiness and misery of all concerned, furnishes the only proper way of regulating the formation of right ends."⁵ And still again: "A moral principle, then, is not a command to act or forbear acting in a given way; it is a tool for analyzing a special situation, the right or wrong being determined by the situation in its entirety, and not by the rule as such."⁶

Every problem connected with procedure presents a dilemma of conflicting interests with several possibilities of choice. No two procedural situations are identically the same, so that fixed rules for determining conduct cannot be rigidly applied. The principle upon which choice of action must be based is necessarily a moral principle, for legal rules only present the opportunity of choice, but do not solve its problem. If we accept the prevailing theory of utilitarian ethics, which seems peculiarly appropriate in judging the conduct of a public profession, we shall find the true motive of choice to be the greatest aggregate good to the lawyer, his client, the opposing lawyer, and his client, the judge, the jury, the witnesses, and the general public. A conscientious consideration of the rights of all these parties to the litigation will result in a true ethical judgment. Such a judgment will always be a compromise, but this merely demonstrates its moral rather than its legal nature. As Spencer says in his *Principles of Ethics*:

"Life hourly * * * brings individual interests face to face with the interests of other individuals, taken singly or as associated. In many such cases the decisions can be nothing but compromises; and ethical science, here nec-

essarily empirical, can do no more than aid in making compromises that are the least objectionable. To arrive at the best compromise in any case, implies correct conceptions of the alternative results of this or that course. And, consequently, in so far as the absolute ethics of individual conduct can be made definite, it must help us to decide between conflicting personal requirements and also between the needs for asserting self and the needs for subordinating self."⁷

Now, the widespread criticism of the administration of justice relates to the use which is made of the rules of procedure. Complaint is made of delay, uncertainty, and the excessive emphasis upon technical points. Summarized, this only means that the profession is using the rules of procedure, most of which are proper enough in themselves, for improper purposes. In other words, lawyers professionally fail as actors in a moral world.

The reason is not far to seek. Lawyers are concerned with two different fields, one purely legal, one partially ethical, and their training is so largely legal that they allow legal methods and legal standards to exercise a dominant control, to the exclusion of moral elements. The constant aim of the lawyer is to bring the particular case under some established and binding general rule. He seeks resolute results, not approximations or compromises. There is an arbitrary finality about his judgments. One ground for recovery is precisely as good as forty grounds; one defense is exactly equal to another. The defendant is either liable or not liable. There are no intermediate gradations. We have either a valid execution of an instrument or no execution at all. The consideration for a contract is either good or bad—100 per cent. or 0. The slightest trace of contributory negligence is as utterly destructive of the plaintiff's right as the most wanton recklessness. A life of rectitude weighs nothing against a single false step. There is a ruthlessness in the operation of these rules of the law which refuses to take into account individual

⁴ *Ethics*, by Dewey and Tufts, p. 250.

⁵ *Id.* p. 266.

⁶ *Id.* p. 334.

needs or circumstances. Hard cases make bad law. Justice is a blindfolded goddess.

Habits of thought acquired by the rigid discipline of the substantive law inevitably follow the lawyer into the field of procedure. Accustomed to form legal judgments as a pure exercise of his logical powers, he naturally pursues the same course in dealing with procedural rules. Unrestricted by moral considerations in the major problems of liability he finds himself equally unconcerned with them in the minor problems of procedure. He develops a thoroughly consistent and uniform attitude toward all classes of legal questions, which is essentially non-moral. It ignores ethical principles as irrelevant and immaterial.

Writers on ethics have noted this characteristic of the legal profession. Dewey says that "the 'legally minded' man is likely to be one with whom technical precedents and rules are more important than the good to be achieved and the evils to be avoided,"⁸ for the legal view of conduct tends to magnify the letter of morality at the expense of its spirit.⁹

Knowlson, writing on Originality, asserts that the last person who ought to be allowed to exercise control over governmental agencies is the lawyer, because "the legal mind has too strong a tendency toward guidance by precedent," that is, by formal logic, and is accustomed to a form of mental procedure which is ethically injurious.¹⁰

The system of legal education which we use is admirably adapted to perpetuate this legalistic attitude. We train for logical accuracy rather than for public service. The spirit of our teaching was well expressed by James Barr Ames when he said that the chief purpose of the Harvard Law School was to develop "the power of legal reasoning."¹¹ Most teachers can properly make the same assertion in regard to their own schools. In all the substantive branches of the law we aim to be sure, to give the requi-

site historical and social perspective, and to impart an adequate amount of technical information, but our great task is to train the mind in legal thinking. Perhaps 80 or 90 per cent. of our effort is directed toward this end. Power in solving legal problems is the final goal of the law school course. If we can graduate men with well trained legal minds, we feel that our work has been well done.¹²

By our very emphasis upon the purely intellectual content of the law we hide the ethical quality of its administration. The logic which solves its problems of liability is assumed to be sufficient to guide the choice of its procedural means. After three years of intensive effort in testing human actions solely by the rigid rules of law, weighing it in a moral vacuum, and judging it by the cold processes of pure reason, how can the student be expected to test his own professional conduct by any other standard?

He has developed a non-moral habit of thought in dealing with juridical data, and that habit follows him in his professional work throughout his career. To use the language of a careful and philosophical observer: "Every lawyer * * * has his legal mind formed in its impressionable period by the traditional mode of thinking upon legal and juristic questions. All questions are looked at from the standpoint of this received juristic tradition."¹³ The effect of legalism upon the ethical instincts is the same as the effect of asceticism upon the social instincts. They cease to function with normal vigor.

If a concrete demonstration of this inveterate mental habit should be sought,

¹² This is often and emphatically stated as a commonplace of legal pedagogy. For example, the following: "The only help for our lawyer lies in his capacity to reason accurately and convincingly from fixed precedents. Hence there slowly arose a recognition of the fact that that law school did most for its students which taught them to think clearly and accurately in terms of settled legal principles, to analyze, test and weigh precedents under the fierce light of reason, and trained them in the art of applying old principles to new states of fact."—Vance, "The Ultimate Function of the Teacher of Law," *Pro. Ass'n Am. Law Schools*, 1911, p. 33.

¹³ Pound: "Taught Law," *Pro. Ass'n Am. Law Schools*, 1912, p. 60.

⁸ Dewey and Tufts, *Ethics*, p. 466.

⁹ *Id.* p. 327.

¹⁰ *Page* 213.

¹¹ *Proceedings Ass'n Am. Law Schools*, 1907, p. 16.

the practice in regard to reversals for misconduct of counsel will furnish it. Hundreds of cases may be found in the reports where, by tricks of sharp practice, lawyers have knowingly asked improper questions in order to bring inadmissible evidence to the attention of the jury, have made direct appeal to the jury's prejudices and passions, have browbeaten and insulted witnesses, have tampered with members of the panel, have employed false testimony, or have argued beyond the scope of the evidence. Here there is a clear double aspect of the case. The conduct is contrary to legal rules; it is also directly immoral. But in the vast majority of such cases the court limits its action to the former aspect and completely neglects the latter. Legal error looms so large, and moral delinquency, when put in competition with it, seems so small, to the legalistic mind, that reversal for error is the sole remedy employed. Why merely penalize the innocent client, and let the guilty lawyer go unpunished? There is no lack of power in the court. There is only the lack of moral judgment.

Equally striking is the attitude of many judges in disbarment cases. A lawyer commits deliberate perjury in the court in which he practices. It is proved beyond doubt. A layman, for the same offense, would receive a penitentiary sentence; the lawyer is merely suspended from practice for two or three years.¹⁴ Another lawyer hires two adventurers to falsely impersonate his clients in effecting a settlement for a large damage claim, himself signs their forged release as a witness and takes the money. For this combined false pretense and forgery he is merely suspended from practice for a couple of years.¹⁵ The judges in these cases are high-minded men but their legalistic habit of mind, has atrophied their sense of moral values in the field of legal practice.

When Justice John H. Clarke recently commented on the astonishing discussions and distinctions in the field of con-

stitutional law which the Supreme Court of the United States was forced to listen to, and observed that ingenuity and refinement were rapidly converting the members of the legal profession in this country into a group of casuists rivaling the Middle Ages schoolmen in subtlety of distinction and futility of argument,¹⁶ he was only observing the natural effect of our overemphasis of the abstract and logical qualities of the law. The antidote for legal casuistry is a well-developed and ethical conscience in the lawyer's daily professional work.

Legal ethics cannot be effectively taught by lectures or by reading canons of ethics. Most ethical rules which can be formulated are necessarily vague and general, and like all abstractions mean little to the student. What is wanted is a proper habit of mind, not mere information as to conventional standards of legal respectability. The student must accustom himself to an instinctive recourse to moral rather than exclusively legal tests in passing upon procedural problems. He must feel the position of the lawyer as an officer of the court in a thoroughly fundamental and practical sense. He must consider rules of procedure as the forms through which justice is to be realized. The right to practice law is the right to employ procedural processes, and that right is a trust conferred upon the members of the bar for the benefit of society. Every hour in the classroom in procedure should be an hour devoted to a study of the justification of the uses to which procedure may be put.

It is not enough to know what demurrers are designed to do; the deeper question is, what should a lawyer do with demurrers? A case turns upon a special demurrer. Two points are involved: Was the pleading subject to such a demurrer? Was the good to be accomplished by its use sufficient under the circumstances to counterbalance the time, effort, and expense consumed by the parties, the counsel, and the court? A general demurrer is involved. Technique requires no specification of

¹⁴ *Matter of Andrew J. Sawyer*, 1 Mich. State Bar Jour. XXVI.

¹⁵ *Matter of Calvin L. Bancroft*, 2 Mich. State Bar Jour. *49.

¹⁶ *Am. Bar Ass'n Journal*, May, 1922, p. 263.

grounds; but what can be said of a system which allows a demurrant to lie in wait for his opponent, give him no notice of the point of attack, and overwhelm him with surprise and confusion? A score of requisites for drawing pleadings are taken up one by one. What purpose does each one serve? Is the rule well adapted to reach that purpose? In each case studied is the rule usefully invoked, or has technical zeal or professional callousness made it only a means of annoyance and oppression?

We study the requisites of a writ. Is it a nullity without a seal? The Supreme Court of Georgia, looking at a writ as only a substantial agency for due process of law, can hardly treat the question seriously.¹⁷ The Supreme Court of Montana, following the United States Supreme Court like a Rip Van Winkle, waking after three centuries of sleep, solemnly declares that a writ without a seal is exactly equivalent to a blank sheet of paper, even on a collateral attack, notwithstanding a statute commanding the court to disregard every error or defect in the proceedings not affecting the substantial rights of the parties.¹⁸ What better material could be found for contrasting the ethical and social standards for administering justice with the legalistic perversion of remedial processes?

The evidence conclusively shows that a defendant charged with murder was lying unconscious on the floor during the whole time that the affray resulting in the killing was going on, but on appeal a verdict against this defendant, who is conceded to be innocent, is sustained solely because a rule of appellate practice requiring the point to be first raised in the trial court was not observed.¹⁹ Could any one but a lawyer so completely lose the sense of moral values? Could any case more strikingly prove the futility of mere logic as a guide to legal practice?

Every case for a nonsuit or a directed

verdict involves the question of practical expediency in the use of the institution of the jury. The so-called "scintilla rule" embodies the legal dogma of a jury operating as an end in itself, under rules of pure logic so delicately adjusted that the weight of one hair is a perfectly adequate test of an issue of fact. What so contrary to common sense as the characteristically legal proposition that, since the credibility of witnesses is a question of fact, the jury must be given the opportunity of disbelieving uncontradicted and unimpeached oral testimony?²⁰ The legalistic mind makes the jury a fetish; the ethical mind uses it as a practical means for doing substantial justice.

The whole doctrine of new trials and of appeal and error involves a study in ethical compromises. A trial can hardly go on without technical error, which creates a presumption in favor of recurrent new trials. But society cannot afford to maintain a standard of procedural accuracy so high that the expense is out of proportion to the value of the results. Where shall the line be drawn? How much error will suffice to make a new trial or a reversal on appeal advisable? The cases dealing with motions for new trials are all applications of the rule of social expediency to the infinitely various departures from procedural rules. Questions of appealable orders raise problems of administrative policy, and distinctions between harmless and prejudicial error involve adjustments between the letter and the spirit of remedial law. In all these cases the lawyers and the courts are joint agencies working in the public welfare, and what the courts cannot rightly grant lawyers cannot rightly urge. Every such case is a concrete problem in public service.

V.

Such, then, are the three chief functions of procedure as it ministers to the cause of legal education. As the beneficiary of an absolute monopoly in the use of procedural processes, the bar is un-

¹⁷ *Lowe v. Morris* (1853) 13 Ga. 147.

¹⁸ *Choate v. Spencer* (1893) 13 Mont. 127, 32 Pac. 651, 20 L. R. A. 424, 40 Am. St. Rep. 425.

¹⁹ *State v. Garcia* (1914) 19 N. Mex. 414, 143 Pac. 1012. Fortunately this shocking opinion was reversed on a rehearing.

²⁰ *Giles v. Giles* (1910) 204 Mass. 383, 90 N. E. 595.

der a definite obligation to acquire adequate knowledge and develop reasonable skill in employing them. The duty to educate in this field lies with the schools. It will not do to say that the technique of practice can be picked up after the student gets into his professional work. The schools must relieve clients from the burden of educating the bar.

Again, the lawyer is the only effective agency for improving the methods of legal administration, since he alone is initiated into its mysteries. No improvement can be expected from an uninformed bar, and information cannot be obtained in the daily conventional routine of a lawyer's work. The schools alone are able to give the knowledge and the outlook, and to create the interest necessary for adequate reform.

Finally, the outstanding failure of the profession to meet the moral demands of the public in their use of the machinery of the law is the result of a lack of

perspective rather than of a lack of character. Lawyers overemphasize logic and minimize ethics as a test of professional conduct. They need to acquire an intuitive sense of the ethical values inherent in the choice and use of procedural processes. Only in the schools can this be done, for there alone are combined the leisure, the detached attitude, the enthusiasm, and the impressionability necessary for creating a permanent basis for a consistent ethical outlook upon professional service.

These functions vitally affect the legal profession. They bear upon that side of the law with which the public is most dissatisfied—its administration. If they have been correctly analyzed in this inquiry, the schools must not only revise their views respecting the importance of procedure, but by their methods of teaching they must make it contribute more effectively to the development of the legal profession as a true public service.

The Correlation of Law and College Subjects

By *WILLIAM H. SPENCER*,

University of Chicago School of Commerce and Administration

and

ALBERT J. HARNO,

Dean of the University of Illinois College of Law

[Addresses delivered at the annual meeting of the Association of American Law Schools at Chicago, December 30, 1922. The discussion following these two addresses will be found on page 130 of this magazine.]

MR. SPENCER: Mr. Chairman and Gentlemen: At Dean Hall's invitation, I am here to-day to discuss the relation of the work of the law school and the work of the undergraduate school, with particular reference to the relation between law and business training.

I have come into contact with this problem in several different ways. I went through an undergraduate school with the view of entering a law school. As I look back upon my undergraduate work, it seems that I studied

nearly everything that I should not have, and very little of anything that I should have, in preparation for law school work. After receiving my bachelor's degree, I went into a law school and received my law degree. For a while after this I taught in a law school. For the past six years I have been teaching law in a school of business. Five years of this time I have spent in administrative work, engaged chiefly in mapping out programs of study for undergraduate students of business.

It seems generally to be agreed that the working relation between the average undergraduate school and the average law school in a given university is not as happy and as efficient as it ought to be. In other words, the average university is not getting from its law school the services which may reasonably be expected of it because of the absence of more flexible and efficient working arrangements between the law school and other departments and schools of the university.

There are several reasons why the working arrangements between the law school and the rest of the university are not as satisfactory and as efficient as they should be. But with respect to this matter I wish in this connection simply to make two remarks. In the first place, I do not believe that the law school itself is to blame for the situation. It is my opinion that the blame for the most part must be laid at the door of those responsible for the administration of other schools and departments. In the second place, I wish to say that one serious factor which seriously hinders happy and efficient relations between the law school and the rest of the university, is a certain mysterious atmosphere of a very forbidding character which enshrouds the average law school. Non-lawyer students are made to feel that the work of the law school is beyond them; that courses in law are something of a sealed book to the undergraduate mind; that the ground on which they walk is holy ground, sacred to the feet of those who are preparing for the practice of law.

I remember with what great contempt we law students were accustomed to regard the few non-lawyer students who wandered into the law school when I was a student of law. We looked upon them as barbarians come to Rome. This mysterious atmosphere is partly historical; it partly arises from the fact that a large percentage of the students in the average school of law comes from other institutions; it is partly caused by the attitude of the student body; and it is partly caused by the attitude of the law faculty itself. But whatever may be the explanation of the situation, the fact remains that a certain feeling pervades the average university that the law school, though it may be in the university, is not of it; that it is something of a separate institution; and that students who enter therein are more or less privileged characters. This atmosphere and feeling is indeed most unfortunate. It is not conducive to the most happy and efficient relation between the law school and the rest of the university. Any program which looks towards more efficient working arrangements must combat this atmosphere of which I have been speaking.

I shall not have anything to say concerning the question as to how better arrangements can be made between law and business

training. That is a matter which must be worked out at each institution in terms of local conditions and local needs. It is a matter which must be worked by and through a conference of all elements in the university interested in the problem. The main topic to which I wish to devote the balance of my time is the desirability of formulating more definite and more flexible programs of study for students who are preparing for the practice of law and for students who are preparing to go into business.

I am so thoroughly convinced of the desirability of better working arrangements between law and business training that I simply cannot understand why they do not exist in all institutions where there are both law and business schools; that it is with something of shame that I confess that it is only within the last year that at our own university we made it possible for a student of business to take a degree in business by taking three years of work in business and one year of work in the law school. Heretofore, for reasons which were always beyond me, we transferred to the college of arts, literature and science any student who announced his intention of going into the law school later on. I will go even further and say that I cannot understand why courses in the law school are not opened up generally to all students, whether preparing for law or life, simply as a part of their general educational program. But that is another matter, and I shall confine my remarks to the desirability of more harmonious and comprehensive programs of study between the law school and the school of business.

I feel that such arrangements are desirable for two main reasons and for perhaps a third more or less incidental reason. Such arrangements will, I think, result in better trained business men, in better trained lawyers, and in better instruction in law schools and schools of business.

Whether the law school needs us or not, I am firmly convinced that we in the school of business need the law school. It seems to me that as time goes on we in the school of business must increasingly encourage and in many cases compel our students, by way of concentration and specialization, to pursue some courses in law schools wherever the local situation permits it. Most schools of business now provide fairly comprehensive courses in general commercial law, which meet the minimum requirements of our curriculum. But this is not enough for the average student, in view of what ought to be required of him by way of concentration in some one of the fields of business training. For instance here is a student who is specializing in personnel administration. He has taken our course in law and business and has a fairly comprehensive appreciation of the law in relation to labor.

But this is not enough for him. He needs a specialized course in the law of industrial relations. The average school of business cannot give the course. The demand for it is not great enough, and, even if it were, schools of business as organized now hardly have the staff to develop the course. We in the schools of business must therefore look to the law schools to provide us with specialized instruction in this particular field. Here is another student who is preparing to specialize in some phase of marketing. In our course in law and business, he has had some contact with the law of the market. But by way of concentration he needs more law with respect to his field than the average school of business is in position to give him. We must therefore send him into law courses where the legal aspects of market transactions and market practices are treated and discussed in more detail.

And so it goes in a greater or less degree with each one of the fields of business training in which specialization may be desired. We in the schools of business need this kind of training for our students. We have for a long time wished that law schools would develop more and more courses in terms of business problems and fields. Like the law of industrial relations, the law of credit, the law with respect to the market, the law with respect to the form of the business unit, etc., to which we could send those of our students who are in need of more intensive training in the given problem than the average school of business can give. Although it might prove my undoing and the undoing of other instructors of law in schools of business, I should welcome heartily the development of new specialized courses in our law schools in terms of business fields to which we could send our students for most of their training in what we call the field of social control.

In the second place, better co-operation between schools of law and schools of business will result in better trained lawyers. Since my connection with a school of business, I have wished many a time that I might have had an opportunity of going through a good business school before taking up the study of law. In my administrative work I have been compelled to acquaint myself with the general content of all our business courses, and this alone I value very highly as a part of my equipment for the better appreciation and understanding of law.

There was a time when it was generally thought and said that the proper preliminary training for the study of law was history and political science. When I was an undergraduate, for instance, contemplating going into law, I was advised on all sides, both in and out of college, to take all available courses in history and government. And this notion, I think, still prevails in some quarters. I do not intend to discount the

value of history and political science as a part of any program of education. But, so far as direct preparation for the study of law is concerned, I think that the notion referred to is wholly erroneous. For those students who are preparing for public life, history and political science may properly be regarded as a necessary part of their training and equipment. But the plain fact is that only a very small percentage of men who train for the practice of law ever go into public life. The great majority of lawyers are what may be called business lawyers. As time goes on the problems with which future lawyers will be called upon to grapple will increasingly be business problems. And as an essential part of their training such men ought by all means as undergraduates to come into contact with the valuable instruction which is being given in our modern schools of business in the various fields of business activities, such as finance, marketing, labor, form of the business unit, technology, production, risk and risk-bearing in modern industrial society, and standards, records, and reports.

But permit me to go even further—in the future the lawyer most in demand will not be the man who extricates the business man from trouble, but the man who keeps him out of trouble. Just as medical science is paying more attention to prevention than cure, so in the field of legal science the emphasis in the future must be upon constructive, preventive advice rather than upon the service which gets the business man out of trouble. The function of the future lawyer must more and more be the anticipation of breakers and the avoidance of them. It is already true, of course, that our biggest businesses are provided with an expert whom I may call a social control expert, whose function is to steer the business safely through the maze of social forces—legal forces, of course, included—which may wreck the business. Such a man must be more than a lawyer; he must be more than a business man; he must be a combination of lawyer, business man, psychologist, sociologist, and politician in the broad sense. What better service can any university perform for its students and for society generally than the conscious preparation of men for this important rôle in society by the formulation of courses of law and other social sciences?

Incidentally, such co-operation between a law school and a school of business will improve the character of instruction both in the school of business and in the law school. I will confidently assert that that instruction in our schools of business will be helped by such co-operative arrangements. Our instructors will be compelled to dig more deeply in many respects if some of their students come to them after having gone through the grilling and analytical methods of law school

courses. Our instruction in schools of business is inclined to be somewhat too extensive—perhaps too much reading and research, and too little assimilation and thinking. We should like to borrow from the law school more of the intensive methods of study than we have at the present time.

On the other hand, permit me in this presence timidly to venture the opinion that students going into our law schools from a school of business may result eventually in improving the character of work and instruction in law schools. I think perhaps our law professors are not always as well acquainted with the business implications of legal problems as they might be. Perhaps this contact with students who are full and running over with business data will help them somewhat. Again, as we in schools of business err on the side of extensiveness, I think perhaps law schools err on the side of intensiveness, or, at least, the law school in its efforts to develop keen, analytical powers in some degree fails to foster a spirit of research among its students. Perhaps our students more accustomed to extensive reading than thinking will assist in some degree in developing habits of broad reading in law schools.

We in schools of business are conscious of our need; that our students be given additional work in law schools by way of concentration in their specialized fields. We need the work given by the law schools in rounding out the curriculum of our business students. On the other hand, if law schools feel that they would like to have their students come up through schools of business, I believe that those in authority in schools of business will welcome pre-legal students for three years or more and give them the best preparation possible for future law work.

MR. HARNO: Mr. Chairman and Gentlemen: In his current annual report to the Board of Trustees of Columbia University, President Nicholas Murray Butler makes certain statements which challenge attention. He says of legal education¹ that it is generally admitted that it "has fallen into ruts and that it has never been subjected to critical examination from the standpoint of educational principle. * * * In fact, legal education has been treated too largely as a matter of law and too little as a matter of education." He continues: "Law schools in the United States have, ever since their establishment, been cast in a common mold. They have slavishly imitated the program of instruction and the methods of teaching followed in one or two of the older and more influential law schools, and there has been no such searching criticism of either the program of study or of the methods of instruction as

has been the case with letters and with science."

Legal education has, indeed, made one contribution, the case method of study. Said Dean William Carey Jones: "There is only one innovation of significance and essential importance that has been introduced. This innovation was in the method of instruction and was due mainly to the initiative of one person, Professor C. C. Langdell. * * * It is the one signal achievement of the American law school."² Through the study of cases the student gains a thorough knowledge of legal principles, and, what is of greater importance, he acquires habits of legal reasoning and of discrimination. But this is yet short of the end desired. "We teach thoroughly the principles of the main departments of the common law. Thus we fit men well for the daily contests of a forum in which the common law obtains. But this method, this thinking, these principles, are not those of the law-making of to-day. Hence our teaching is not unlikely to put the trained lawyer wholly out of sympathy with the most vital matters in the present law. If lawyers are to be of service to the community as well as to clients, teaching of law must take account of this."³

The present invites us. The great troubling social questions of the day beckon us. "Law is the reflection and image of the outer world." "It is true, I think, to-day in every department of the law," states Mr. Justice Cardozo, "that the social value of a rule has become a test of growing power and importance."⁴ The problems before the courts in recent important cases bear testimony to this fact. In reading such cases as *Federal Trade Commission v. Beech Nut Packing Company*,⁵ *Federal Trade Commission v. Gratz*,⁶ and *Truax v. Corrigan*,⁷ and particularly the remarkable dissenting opinions by Mr. Justice Brandeis in the last two named, one is not only impressed but convinced.

Legislation involves a weighing of social values. "Whether a law enacted in the exercise of the police power is justly subject to the charge of being unreasonable or arbitrary can ordinarily be determined only by a consideration of the contemporary conditions, social, industrial and political, of the community to be affected thereby. Resort to such facts is necessary, among other things, in order to appreciate the evils sought to be remedied and the possible effects of the remedy proposed. Nearly all legislation involves

¹ Jones, *The Problem of the Law School* (1912) 1 Calif. L. Rev. 1.

² Pound, *Taught Law*, *Proceedings of the A. of A. L. S.* (1912) 55, 75.

³ Cardozo, *The Nature of the Judicial Process* (1921) 73.

⁴ (1922) 257 U. S. 441, 42 Sup. Ct. 150, 66 L. Ed. 307, 19 A. L. R. 882.

⁵ (1919) 253 U. S. 421, 40 Sup. Ct. 572, 64 L. Ed. 993.

⁶ (1921) 257 U. S. 312, 42 Sup. Ct. 124, 66 L. Ed. 254.

¹ President's Annual Report (1922) 27, 28.

a weighing of public needs as against private desires, and likewise a weighing of relative social values. Since government is not an exact science, prevailing public opinion concerning the evils and the remedy is among the important facts deserving consideration, particularly when the public conviction is both deep-seated and widespread and has been reached after deliberation."⁸

Contracts are made and business intercourse is had in the light of the opinions prevailing in the community, and not pursuant to bare legal rules. "The subjective sense of justice will, accordingly, find substantial support in the actual rights and interests of the parties, in the habits and opinions of the business world, and the needs of human intercourse. The courts themselves will concede that much greater authority should be attributed to a sense of justice supported by these material factors than they have ventured to (do) in the past. They will feel at liberty to find their proper functions in something else than an anxious search for legal principles supposed to be concealed in the facts of the case."⁹

And with this changed idea of law there must come a reconstruction of the curricula in our law schools. "It is generally recognized," says a careful student,¹⁰ "that a lawyer is better prepared for his life work and is likely to obtain a broader view of legal principles if he brings to his profession some education in political economy, sociology, and political science." Mr. Justice Holmes characteristically gives his views on the question: "I cannot but believe that if the training of lawyers led them habitually to consider more definitely and explicitly the social advantage on which the rule they lay down must be justified, they sometimes would hesitate where now they are confident, and see that really they were taking sides upon debatable and often burning questions."¹¹ And further he sums up the situation for us in this epigrammatic fashion: "For the rational study of the law the black-letter man may be the man of the present, but the man of the future is the man of statistics and the master of economics."¹² "We must not make the mistake in American legal education," Dean Pound¹³ warns us, "of creating a permanent gulf between legal thought and popular thought." "But we may commit this mistake, not merely by teaching legal pseudoscience, and obsolete philosophy, but quite as much by the more prevalent method of saying nothing

about these matters at all, leaving the student to pick up what he may here and there in the cases and texts, with no hint that there are other conceptions and other theories entertained by scholars of no small authority, and to go forth in the belief that he is completely trained."

The need for a broader and more diversified training for lawyers has been sounded again and again. From the men on top the message has come down to us. The late Mr. Chief Justice Winslow has counseled us on the importance of the study of economics, sociology and the history and philosophy of the law.¹⁴ "I believe it to be a matter of the greatest importance to the modern lawyer," he states, "that he have some education on these great subjects if he is to be more than a mere pettifogger and money grubber."¹⁵ He finds that the "great interests of the world are economic," and that much of modern legislation is but "applied economics." "The whole field of the regulation of public utilities, both as to the rates and as to the quality of service, is an economic field." Labor legislation largely involves economic problems, and the question as to the best method of taxation is "purely economic."

In dealing with the criminal we touch elbows with the sociologist. It was Judge Winslow's opinion that all the litigation in the future worth the attention of the successful lawyer will infallibly be litigation involving or rising out of "commercial and social legislation and requiring interpretation and application of its provisions to the affairs of everyday life." "The law," he continues, "cannot be regarded as a separate and distinct science covering a certain limited and well defined field and no more. It is the science of sciences. It touches life at many angles. Lawyers and judges, even while engaged in mere routine litigation, are daily dealing with practical problems, some commercial and some social in their nature."¹⁶ He concludes with this admonishment: "If the lawyers are to maintain their prestige as leaders in governmental affairs, whether as legislators, lawyers, or judges, they must make themselves acquainted with economics and sociology, for these are the two great sciences which must play leading parts in the legislation which has already come, and is yet to come in greater volume."¹⁷

Are the law schools rising to the occasion? It is not the purpose of this paper to enter into a tirade against legal education. The speaker is fully imbued with the belief that the law teacher, in many of our law schools, is doing his part conscientiously and well in this scheme of things. But improvement we are all seeking. Occasionally it is wise to

⁸ Mr. Justice Brandeis in his dissenting opinion in *Truax v. Corrigan*.

⁹ Gmelin, 9 Legal Philosophy Series (1917) 131.

¹⁰ Freund, The Correlation of Work for Higher Degrees in Graduate Schools and Law Schools (1916) 11 Ill. L. Rev. 301.

¹¹ Holmes, Collected Legal Papers (1921) 184.

¹² Id. 187.

¹³ Pound, The Need of Sociological Jurisprudence (1907) 19 Green Bag 607, 611.

¹⁴ Winslow, Wigmore Celebration Legal Essays (1919) 113.

¹⁵ Id. 114.

¹⁶ Id. 119.

¹⁷ Id. 121.

indulge in a bit of introspection. Perhaps thus we may discover waste and misdirection. What then is the situation?

Considering first the schools which require no college work as a prerequisite to the beginning of the study of law, we merely note that they give inadequate training to law students. Particularly the student is given no conception of the broad underlying principles of service so necessary to a lawyer's qualifications. Professor Williston has well stated: "One who has had no college training is not likely to have an intelligent understanding of economic theory on which to base a study of the law governing such problems, and few indeed are those for whom the possibility of broad systematic study has not ended when they begin the actual practice of their profession."¹⁸

We direct our attention chiefly to those schools which have prescribed an admission requirement at least as high as that recommended by the Conference of Bar Association delegates in the meeting in Washington last February; that is, those which require as a condition of admission at least two years of study in a college.¹⁹ The student who enters a law school after two years of study in a college, as compared with those entering law school from high school, has added these years toward his maturity. This factor is important and he is better qualified thereby to begin the study of law. If he is a normal product, he has acquired certain cultural features. This, also, is desirable. He has taken various courses which are beneficial. But is he prepared to enter an intensive study of the law? Has he acquired that "framework of present-day conditions, as revealed by the labors of economists and students of the social sciences?"²⁰

The student who for the first time enters one of our large universities finds much of his time occupied during the first year in becoming adjusted to his new surroundings. He carries, to be sure, a few subjects, but these are made up largely of courses required of all freshmen under a university regulation. His second year is better. He is more settled, and he is given a wider scope in the choice of his subjects. But even here he finds his time largely occupied in taking various elementary subjects, prerequisites to more advanced work. Very likely, if he chooses carefully, he obtains some valuable information during the course of the year. But too often he regards this period only as an obstacle to his entrance to the law school. The impression is too prevalent that this is but a time-marking period. The student who holds this thought is reconciled to the fact that he must spend two years in college, but

only as a means to an end—to enter the law school.

The more thoughtful student derives immeasurably more benefit from these years. But he, too, has difficulties. The vast offering of courses by a modern university is overwhelming. The speaker has acted on committees composed of mature men, experienced in the affairs of a university, where literally weeks were consumed in sifting courses in the attempt to glean from among those offered the more desirable for pre-law students. He solemnly passes his word that it is a tremendous task. And if it taxes the efforts of men of experience, how must fare the immature student when he comes to select his work?

The pre-law student is assisted by advisers. But these are not men trained in the law, nor even in the elements of a legal education. Further, there is no uniformity in the advice given. It is quite unlikely that a student will obtain the same adviser in two successive semesters. There are, to be sure, "suggested curricula" to aid the student, but these have no direct influence, and often are totally ignored in the stress of registration.

Two years of a student's time is thus consumed. No one can doubt, unless he is of a mind that all liberal training is futile, that these years have been fruitful. But withal, there has been too much waste and misdirected effort, too much of uncertainty and of the haphazard. Surely it cannot be said that all the courses in the great complicated offering of a university are of equal value for every student. If this variety is of any purpose, we must conclude it is to meet various needs. And if advantage there is in choice, it becomes a duty to assist the pre-law student in the selection of courses best adapted for him in his legal training.

So, also, is the case of the student who enters a law school after three or four years of college work. He has had more of the liberal training, and is to that extent in a better position. He also has had in this added period more advanced work. But, in all probability, he has been a roamer over the great field of courses, sampling here and there of this huge offering of the modern college. He has a liberal training, to be sure, but frequently without keeping in view the object of his education.

At the University of Illinois there has been initiated an experiment with the view to providing a "broader and more extensive training for students preparing to enter the legal profession. A new course has been adopted, the plan of which aims to occupy a student's time for a period of six years. On admission to this course the student is first registered either in the College of Commerce and Business Administration or in the College of Liberal Arts and Sciences. He will continue there for a period of two years. Following this, if he has accumulated sixty hours of credit (not including military and

¹⁸ Williston, Report of Special Session on Legal Education of the Conference of Bar Association Delegates (1922) 34.

¹⁹ *Id.* 143.

²⁰ Cardozo, *op. cit.* 81.

physical education) he registers in the College of Law. His course now continues for four years in the Law School. On the completion of two years in the Law School and four years in the University, he normally becomes a candidate for the Bachelor of Science degree. At the end of four years in the Law School and six years in the University he normally becomes a candidate for the degree of Bachelor of Laws or Doctor of Law.

In the two years before he enters the law school, the student should have little difficulty in finding his way with respect to his choice of subjects, since the subject and group requirements of the course give trend and aim to his work. Some scope is given to elective work, but the general indication throughout is to emphasize, through subject and group requirements, such courses as deal with the "origin and development of society, with economics, and with government." These years are occupied principally in laying the foundation for the courses of the later years. Attention is given English and rhetoric. Considerable work is done in history. The introductory and prerequisite courses to more advanced work in economics, political science and philosophy are scheduled. Thus the student finds the weight of his time occupied.

The work of these years finished, he comes then to the law school to continue his course for a period of four years. From now on the scheme is that he will correlate his work with advanced courses given by other departments, principally in political science, economics, sociology, history and philosophy. Here is in fact the beginning of the educational experiment.

The neophyte is now for the remainder of the course under the direct guidance of the law faculty. He is assured of careful and intelligent direction in the choice of work. The subjects of the first year in the law school will consist largely of the fundamental courses in law. There will be some correlation with subjects in other departments. The belief that students cannot be interested, their work in the law school once begun, in the subjects of other departments is well founded when there is a haphazard choosing of work. But once a student finds that he is taking these courses as part of the law curriculum, and once he realizes their purpose, he will be quite as interested in them as in his law work. To interest him he must see the significance of this work. Where subjects are chosen with the view of their direct bearing on the law work of the curriculum there is little trouble in their significance becoming known.

But why correlate at all? What is the significance of this plan? The course is grounded in the belief that certain advanced courses in government, in philosophy, in history, sociology and economics can be studied advantageously contemporaneously with law sub-

jects, and that some of these subjects can more profitably be taken after a considerable background of law work. These courses, if well chosen and taken by a more mature student, should endow him with a wider understanding of the application of his law studies. He will gain, not alone bare rules and legal concepts, but a "social, political, and legal philosophy abreast of the times."

Legal history should properly be taught in the first year of the law curriculum. This, however, is not to preclude a more advanced course later. "The rational study of law is still to a large extent the study of history. History must be a part of the study, because without it we cannot know the precise scope of rules which it is our business to know. It is a part of the rational study, because it is the first step toward an enlightened skepticism, that is, towards a deliberate reconsideration of the worth of those rules."²¹ By the study of history a student gains a grasp of the "outline of the law's broad divisions," the basic legal principles and processes, and the purpose of the law, its origin and growth. History, "in illuminating the past, illuminates the present, and, in illuminating the present, illuminates the future."²²

Perhaps no field of the law has been more neglected than the criminal law. "What have we better," questions Mr. Justice Holmes point-blank, "than a blind guess to show that the criminal law in its present form does more good than harm?"²³ He continues: "I do not stop to refer to the effect which it has in degrading prisoners and in plunging them further into crime, or to the question whether fine and imprisonment do not fall more heavily on a criminal's wife and children than on himself. I have in mind more far-reaching questions. Does punishment deter? Do we deal with criminals on proper principles?"²⁴ In the orthodox law course we study the various legal elements of crime, and the legal niceties of specific crimes, but a vital field is left untouched. "In the administration of justice there are many subtle forces at work of which we are but partially conscious. Tradition, education, physical surroundings, race, class and professional solidarity, and economic, political, and social influence of all sorts and degrees make up a complex environment in which men endeavor to reach certain results by means of legal machinery. No discussion simply in terms of men or of legal and political machinery, or of both, ignoring this complex environment, will serve. At whatever cost in loss of dramatic interest or satisfying simplicity of plan, we must insist on plurality of causes and plurality and relativity of remedies."²⁵

²¹ Holmes, *op. cit.* 186.

²² Cardozo, *op. cit.* 53.

²³ Holmes, *op. cit.* 183, 189.

²⁴ Holmes, *Id.*

²⁵ Pound, *Criminal Justice in Cleveland* (1922) 561.

"The jurist of to-day, the world over, seeks to discover and to ponder the actual social effects of legal institutions and legal doctrines."²⁰ A study of crime is incomplete without criminology. Here the field of the lawyer and the sociologist overlap. In criminology is assembled what the law neglects. The cause of crime and the criminal's relation to society here undergo intensive study, the case of the individual criminal, his heredity and environment, is considered. How should society deal with him? The police system, bail, trial courts, jails, the penalty and probation are in turn studied; but as social, not as legal, institutions, criminology could well be studied contemporaneously with criminal law, or one should directly supplement the other.

Nearly every Liberal Arts curriculum lists a course in political philosophy, yet rarely is it chosen by men preparing for the law. Almost unexplored by the lawyer, here is a field immensely rich in mental endowment yielded for the effort. The political writings of Plato, Aristotle, Locke, Burke, and Bentham are analyzed. How can such a study but extend the horizon of thought? Among the problems considered are the "end of the state; the significance of the recurrent attempt to present a sketch of the perfect state, the concept of democracy; the end of law; obedience to law; the process of legal reinterpretation; and the right of revolution." Thus may the student acquire a wide understanding of fundamental political beliefs. The study calls for maturity, reflection, and a background of knowledge—a course for advanced law students. The transition from a study of specific law subjects to the big philosophical questions is not only desirable, but natural.

For advanced law students I should recommend the course in legislation offered by departments of political science. It is common knowledge that legal training in the ordinary orthodox law curriculum does not fit a man for legislative work in any adequate degree. "It does not acquaint him with the problems of legislation, and it does not provide him with any of the technique essential to the formation of a good law. Yet it is true that a very large proportion of our lawmakers are lawyers, and this condition is likely to continue in view of the established leadership of the bar in American public affairs." In the usual course in legislation are studied the problems and the methods connected with legislative work and the technique of good bill drafting. The course contemplates an analysis of the legislative function of government, and of the character of the organs which have been created to perform that function. "The range of legislative competence and the limitations upon legislative

competence are considered." Analysis is made of the legislative procedure, the rights of minorities and of the general principles which govern the making of law. It covers such topics "as the preparation of legislative proposals, the introduction of bills, the committee system, committee methods and the character and quality of committee work. Methods of expediting legislative work are reviewed, and measures showing poor technique are criticized and redrafted. Possibly it is an open question as to whether such a course should be introduced into the law curriculum. But surely there can be no doubt as to the value of this study to a student in supplementing his law work. And when offered by another department of the University can there be any question as to the advisability of directing that to it?

The conflict between capital and labor is another great problem into which the lawyer must delve. This controversy looms mightily and at times threatens to overshadow all else. The lawyer cannot avoid this task "The increased complexity of industrial relations, the tremendous growth of labor organizations, the increased general use of injunctions in labor disputes, the general application of the doctrine of the police power, and the important rôle played by the courts in the field of labor problems, make it imperative that lawyers who are to be successful and who are to perform constructive social service should have intimate knowledge of the whole field of industrial relations." Sporadic attention has been given this question in the curricula of law schools, but as yet these schools have not awakened to the seriousness of this immense social problem. The economist and the sociologist are intensely at work, and courses are being offered. The student who brings to this study an understanding of legal concepts is prepared to gain much from a critical analysis of these relations. Possibly it is even more advantageous for him to enter upon this examination under the direction of an economist, rather than a lawyer, for though legal problems are heavily involved, the question, after all, is primarily social and economic.

English constitutional history could well be studied contemporaneously with law, preferably early in the curriculum. Public finance, a course in which is taken up a study of public expenditures—their growth and economic aspects, the development of the revenue systems, the use of taxes, fees, and special assessments, justice in taxation and shifting of taxes, could be studied by the law student later in the curriculum. Constitutional aspects of social and industrial problems supplement constitutional law. Municipal government affords valuable training. Corporate management and finance supplement the course in corporations, and economics of insurance correlate with insurance.

Thus are detailed some of the possibilities

²⁰ Pound, Administrative Application of Legal Standards, Proceedings of American Bar Association, 1919, p. 449.

of widening the scope of the law curriculum; of introducing a policy with the view to lengthening the course of study from a bare three years of specialized law work to six or seven years of a widely liberalized program. This to be accomplished not by the lengthening of the actual time in attendance, but by a careful utilization of time and the guidance of the student through his pre-law period. If the survey of this paper be sound, "the jurisprudence of the future will be treated with a special regard to its practical

function as a means of completing a course of legal education. So treated, the science will aim at leading the law student from the particular to the general, from the study of particular branches of law to a comprehensive survey of the legal system as a whole, its fundamental conceptions, its social and economic purposes, and its historical causes."²⁷

²⁷ Brown, *Jurisdiction and Legal Education*, (1909) 9 Column, L. Rev. 238, 241.

Meeting of the Association of American Law Schools—1922

Officers of the Association, 1923

President..... Henry Craig Jones, State University of Iowa College of Law, Iowa City.
 Secretary-Treasurer..... Ralph W. Aigler, University of Michigan Law School, Ann Arbor.
 Executive Committee..... President, ex officio.
 Secretary-Treasurer, ex officio.
 James P. Hall, University of Chicago Law School.
 Edwin W. Patterson, Columbia University Law School.
 Edwin R. Keedy, University of Pennsylvania Law School.

AT the Twentieth Annual Meeting of the Association of American Law Schools, held at the La Salle Hotel, Chicago, on December 28, 29, and 30, 1922, the roll call disclosed the following schools represented by the delegates named below:

Columbia University School of Law: Ralph W. Gifford, Robert L. Hale, Herman Oliphant, Edwin W. Patterson, Richard R. Powell, Thomas Reed Powell, Harlan F. Stone, H. E. Yntema.

Cornell University College of Law: O. L. McCaskill, Horace E. Whiteside, Lyman P. Wilson.

Creighton University College of Law: L. J. Te Poel.

Drake University College of Law: L. S. Forrest, C. L. Hilkey, Arthur A. Morrow.

Emory University, Lamar School of Law: Paul E. Bryan, Henry M. Quillian, Jr., Samuel C. Williams.

George Washington University Law School:

Alvin E. Evans, Merton L. Ferson, Thomas C. Lavery, Hector G. Spaulding, C. M. Updegraff.

Harvard University Law School: Richard Ames, Zechariah Chafee, Jr., Manley O. Hudson.

Indiana University School of Law: Charles M. Hepburn, Walter L. Moll, M. I. Schnebly, Hugh E. Willis.

McGill University Faculty of Law: E. Fabre Surveyor.

Marquette University College of Law: John McD. Fox, Willis E. Lang, Max Schoetz.

Northwestern University School of Law: Frederick B. Crossley, Herbert Harley, A. Kocourek, Robert W. Millar, John H. Wigmore.

Ohio State University: Lewis M. Simes.

Stanford University Law School: M. R. Kirkwood.

State University of Iowa College of Law: Percy Bordwell, M. S. Breckenridge, H. C. Horack, Henry Craig Jones, Rollin M. Perkins, Frank H. Randall.

Syracuse University College of Law:

George W. Gray, Frank R. Walker, Louis L. Waters.

Tulane University of Louisiana College of Law: W. C. Dalzell.

University of California School of Jurisprudence: M. C. Lynch, Orrin K. McMur-ray.

University of Chicago Law School: Harry A. Bigelow, Ernst Freund, James P. Hall, E. W. Hinton, Roswell Magill, Floyd R. Mechem, E. W. Puttkammer, Frederic C. Woodward.

University of Cincinnati Law School: Earl C. Arnold, Alfred B. Benedict, J. Louis Kohl, Robert C. Pugh.

University of Colorado School of Law: H. S. Hadley.

University of Florida College of Law: Harry R. Trusler.

University of Idaho College of Law: O. P. Cockerill.

University of Illinois College of Law: R. S. Bauer (Business Law), Geo. W. Goble, Frederick Green, Albert J. Harno, Francis S. Philbrick, John Norton Pomeroy, W. L. Summers.

University of Kansas School of Law: H. W. Arant, John E. Hallen, Thomas A. Larremore, Raymond F. Rice.

University of Kentucky College of Law: H. J. Scarborough.

University of Michigan Law School: Ralph W. Aigler, Henry M. Bates, Edwin D. Dickinson, Joseph H. Drake, Edgar N. Durfee, E. C. Goddard, H. F. Goodrich, Grover C. Grismore, Evans Holbrook, V. H. Lane, Burke Shartel, Edson R. Sunderland, H. L. Wilgus.

University of Minnesota Law School: H. W. Ballantine, Everett Fraser, George Edward Osborne, James Paige, Henry Rottschaefer.

University of Missouri School of Law: Stephen I. Langmaid, Isidor Loeb, J. P. McBaine, J. L. Parks, Kenneth C. Sears, James W. Simonton.

University of Montana School of Law: Robert E. Mathews.

University of Nebraska College of Law: Warren A. Seavey.

University of North Carolina School of Law: A. C. McIntosh, M. T. Van Hecke, Robert H. Wettach.

University of North Dakota School of Law: Thomas E. Atkinson, Charles E. McGinnis, Lauriz Vold.

University of Oklahoma School of Law: John B. Cheadle, Victor H. Kulp, Alison Reppy.

University of Oregon Law School: Edward H. Decker, William G. Hale, Sam B. Warner.

University of Pennsylvania Law School: Francis H. Bohlen, Edwin R. Keedy.

University of Pittsburgh School of Law: Nathan Isaacs, A. M. Thompson, George Jarvis Thompson.

University of South Dakota College of Law: Whitley P. McCoy, Marshall McKusick, Harry W. Vanneman.

University of Southern California College of Law: Clair S. Tappaan.

University of Tennessee College of Law: Malcolm McDermott.

University of Texas School of Law: Leon Green, Chas. T. McCormick, W. A. Rhea.

University of Virginia Department of Law: Armistead M. Doble.

University of Washington School of Law: C. P. Bassett.

University of Wisconsin Law School: Frank T. Boesel, William Gorham Rice, Jr., H. S. Richards, Oliver S. Rundell, John B. Sanborn, Howard L. Smith.

Vanderbilt University Law School: Chas. J. Turck.

Washburn College School of Law: Harry K. Allen, T. W. Hughes.

Washington University School of Law: Ernest B. Conant, Tyrrell Williams.

Washington and Lee University School of Law: Joseph R. Long.

West Virginia University College of Law: Edmund C. Dickinson, Joseph Warren Madden, Clifford R. Snider.

Western Reserve University, Franklin T. Backus Law School: E. F. Albertsworth, Walter T. Dunmore, C. M. Finckro, A. H. Throckmorton.

Yale University School of Law: Edwin T. Borchard, Charles E. Clark, Walter W. Cook, Arthur L. Corbin, Karl Nickerson Llewellyn, Ernest G. Lorenzen, E. M. Morgan, Thomas W. Swan, Edward S. Thurston, W. R. Vance.

Guests of the Association:

St. Paul College of Law: Oscar Hallam.

University of Mississippi Law School: A. W. Mildren.

University of Wyoming Law School: Charles G. Haglund, Harold Shepherd.

Youngstown Law School: Theodore A. Johnson.

Member Schools Not Represented:

Boston University School of Law,
Catholic University of America School of Law,

Dickinson School of Law,

Hastings College of the Law,

University of the Philippines College of Law.

REPORTS OF COMMITTEES

EXECUTIVE COMMITTEE

The Executive Committee submits the following report for the year 1922:

1. A large portion of the business of the Executive Committee has been conducted by correspondence owing to the great distances separating members of the Committee. The President and Secretary have held several conferences in Chicago. A conference, at

tended by Mr. Corbin, Mr. Larremore, and the Secretary, was held at New Haven in July and another conference attended by the President Mr. Bogert and the Secretary, was held in Buffalo on September 7, 1922.

2. Earlier in the year a questionnaire was sent to all member schools seeking information which was desired by the Executive Committee in connection with proposed amendments to the Articles of Association. Replies were received from 53 of the 55 member schools. The information thus received may be summarized as follows:

a. Admission requirements, 1921-22:

High School	7 schools
One year of college work.....	14 "
Two years of college work.....	26 "
Three years of college work (or more)....	6 "
Total	53

(The two schools not reporting require 2 years and 3 years, respectively.)

b. Special Students. The answers to the questionnaire show that the total registration in the 53 schools which replied was 12,269 in 1921-22. Of this number 961 (8 per cent.) were special students, having less than the minimum entrance requirements specified in the several schools for candidates for the law degree. The 7 schools requiring only a high school education for admission had an enrollment of 2,526, of whom 104 (4 per cent.) were specials. The 14 schools requiring one year of college work had an enrollment of 2,399 students, of whom 328 (over 13 per cent.) were specials. The 26 schools requiring two years of college work had an enrollment of 4,838 students, of whom 473 (over 9 per cent.) were specials. The 6 schools requiring either three years of college work or a degree, had an enrollment of 2,506, of whom 76 (3 per cent.) were specials.

Of the 53 which reported, there were 20 which had more than 10 per cent. of specials. In one of these schools the specials amounted to 50 per cent. of the total attendance, the entrance requirement being one year of college work; in another the specials amounted to 45 per cent.; in two more the specials amounted to over 30 per cent.; in one the specials amounted to over 25 per cent.; in six they amounted to over 20 per cent.; in two they amounted to over 15 per cent.; in seven more they amounted to over 10 per cent., but less than 15 per cent. Thirty-three schools had either no specials at all or less than 10 per cent.

3. One application for admission has been received, on which the Committee will report at the time of the meeting.

4. The following amendments to the Articles of Association were proposed in the Secretary's letter of September 29, 1922. (Italics indicate new or amended sections.)

(1) Amending Article Sixth so that it will read as follows:

Sixth. Law schools may be elected to membership at any meeting by a vote of the Association, but no law school shall be so elected unless it complies with the following requirements:

1. *It shall be a non-proprietary school, controlled by persons having no pecuniary interest in the school, and must not be conducted for profit.*

2. After September 1, 1923, it shall require of all candidates for its degree at the time of their admission to the school either the completion of one year of college work or such work as would be accepted for admission to the second or sophomore year in the College of Liberal Arts of the state university or of the principal colleges and universities in the state where the law school is located and, after September 1, 1925, it shall require of all candidates for its degree at the time of their admission to the school either the completion of two years of college work or such work as would be accepted for admission to the third or junior year in the College of Liberal Arts of the state university or of the principal colleges and universities in the state where the law school is located. (As amended in 1921.)

3. *A full-time school shall require of its candidates for the first degree in law resident study of law during a period of at least three years of thirty weeks each and the completion of seventy-two credit hours in law. A credit hour in law shall consist of at least fifteen hours of classroom instruction.*

A part-time school shall require for the first degree in law a course of resident study that, in the opinion of the Executive Committee, is equivalent to the requirements for a full-time school. A school whose instruction is chiefly given after 4 p. m., or which regularly requires less than twelve hours a week of class work from its students shall be considered a part-time school. The action of the Executive Committee under this subsection shall in each instance be reported to the Association at its next annual meeting and shall stand as the action of the Association until set aside by a vote of a majority of all the members of the Association.

4. The conferring of its degree shall be conditioned upon the attainment of a grade of scholarship ascertained by examination.

5. *After September 1, 1923, students who enter with less than the academic credit required of candidates for the law degree must be twenty-one years of age and the number of such students admitted each year shall not exceed ten per cent. of those first entering the school that year.*

6. It shall own a law library of not less than 5,000 volumes.

7. Its faculty shall consist of at least three instructors who devote substantially all of their time to the work of the school; provided, that as regards the present members of

this Association, this rule shall take effect September 1, 1919.

8. Each member shall maintain a complete individual record of each student, which shall make readily accessible the following data: Credentials for admission; the action of the administrative officer passing thereon; date of admission; date of graduation or final dismissal from school; date of beginning and ending of each period of attendance, if the student has not been in continuous residence throughout the whole period of study; courses which he has taken, the grades therein if any, and the credit value thereof, and courses for which he is registered; and a record of all special action of the faculty or administrative officers.

(2) Amending Article Fourteenth by substituting the word "forty" for the word "thirty," so that it will read as follows:

Fourteenth. *The annual assessment on each school shall be forty dollars, payable in advance, etc.*

Since these amendments were proposed on September 29, the following suggestions respecting them have come from member schools:

a. That the first two sentences of the proposed section 3 be changed to read as follows:

"A full-time school shall require of its candidates for the first degree in law resident study of law during a period of at least 90 weeks, and the successful completion of at least 1080 hours of classroom instruction in law."

This suggestion has been made on behalf of a school using the quarter system, instead of the semester system.

Another suggestion received in this connection is that the minimum period of attendance should not be made so low as 90 weeks, but should be "at least 96 weeks, exclusive of Christmas, Easter and summer vacations."

b. That a resolution be passed interpreting section 2 so as to permit students to register as candidates for the law degree conditioned in not to exceed one-eighth of one year of college work. This is suggested by those who believe that section 2 as it now stands prevents the admission of such students conditioned in any part of one year of college work after September 1, 1923, or in any part of two years of college work after September 1, 1925, and who also believe that admission with a moderate condition of this kind should be permitted. Others have made the suggestion that they believe no conditions should be allowed in admitting students who are candidates for the law degree if the school's admission requirement is the minimum required by section 2 of Article Sixth.

c. That the maximum number of specials permitted under the proposed section 5 be made 20 per cent. instead of 10 per cent.

d. That the maximum number of specials

permitted under the proposed section 5 be 10 per cent. of the average of entering students for three (or perhaps two) years previous, thus making it possible to know in advance exactly how many specials can be admitted.

e. That the words "by section 2 of this article" be inserted after the word "degree" in the proposed section 5. The interpolation makes more clear the meaning of the Executive Committee.

f. That a resolution be passed declaring it to be the sense of the Association that to permit students who have taken law work while registered as special students to make up their academic deficiency subsequently and thus secure the law degree is a violation of section 2 of Article Sixth.

5. The Treasurer's report will show a balance of less than \$200 in the treasury. At the close of 1919 the balance was \$1,594.79; at the close of 1920, \$1,204.68; and at the close of 1921, was \$552.67. It is apparent that the income of the Association must be increased or its fields of activity must be further restricted.

6. The Executive Committee recommends that a committee of three be appointed by the incoming President of the Association to consider the desirability of publishing a book under the auspices of the Association on the Educational and Administrative Problems of Legal Education.

7. The suggestion has been made to the Executive Committee that the 1923 meeting of the Association be held at Denver. At least one member of the Committee thinks that it should so recommend. At the final session a request will be made for instructions from the Association as to the next place of meeting.

Respectfully submitted,

James Parker Hall, President.

Arthur L. Corbin.

George G. Bogert.

Thomas A. Larremore.

Henry Craig Jones, Secretary.

COMMITTEE ON CURRICULUM

I

At the last meeting of the Association the following resolution was adopted:

Resolved, that the Committee on Curriculum for the coming year be requested to consider and report which, if any, of the standard courses in the curriculum may be treated largely from an informational point of view and only secondarily, if at all, with disciplinary objects.

The question has been considered by the Committee, and a majority of its members are unwilling to recommend that any of the "standard courses" be so treated.

The fundamental reason for this adverse report lies in the belief that the teaching of any subject with the primary emphasis on

information, whether the means employed be lectures, text-books, or cases, is of comparatively little value to the student. His analytical and critical faculties are not seriously called upon, his understanding of the common law as "a mode of juristic thought" is not substantially increased and while his attention may be called to a far larger number of legal rules and decisions than would be possible if the subject were taught with primary emphasis on discipline, the permanent addition to his store of information is perhaps not substantially greater.

Two members of the Committee (Mr. Aigler and the Chairman), while admitting in general the force of what has just been written, feel that careful experimentation along the line suggested by the resolution might well be encouraged. In their opinion it is possible that some second and third year courses, such, for examples, as bankruptcy, Insurance, Persons, Municipal Corporations, and Taxation, may be taught from the informational point of view without a serious sacrifice of intellectual training, and with a considerable saving of valuable time. If experiments of this sort have already been made by experienced case-method teachers, it would be interesting to have their judgment of the result.

It should be added, perhaps that while a majority of the Committee are not in sympathy with the suggestion that certain "standard courses" be taught primarily from the informational point of view, they do not wish to be understood as opposing either the liberal use of supplementary assigned reading of an informational character, or the introduction of auxiliary lecture courses, designed to give to students some notion of the subjects or parts of subjects not covered in the intensive study of the "standard courses." These devices are employed in a number of schools, and are recommended as effective means of "completing the picture"—of rounding out, in a measure, the student's knowledge of the law.

II

In the course of the Committee's consideration of the resolution referred to it, the suggestion was made that certain courses which are now given separately in most schools, such, for examples, as Suretyship and Mortgages, and Carriers and Public Service Companies, be combined in one course and an attempt made to teach intensively only the more important and difficult parts of them. The results—or one of the results—of such combinations would be to enable the student, who now has to omit entirely a number of courses because of the impossibility of taking all of them in three years, to acquire a helpful knowledge of a substantially larger number of subjects. Thus, a student who now elects to take Suretyship and not to take

Mortgages, would be able, if the proposal were adopted, to acquaint himself with the nature of and the more difficult problems in both. The underlying purpose—that of saving valuable time by eliminating entirely the less important or less difficult parts of some advanced subjects—might also be applied to courses which do not readily lend themselves to a combination treatment.

This proposal, it will be noted, differs fundamentally from that suggested by the resolution referred to the Committee, for it does not contemplate emphasis on information. On the contrary, it contemplates concentration on those parts of a subject which are best adapted to disciplinary teaching, leaving to the student himself, with the aid, perhaps, of assigned reading or auxiliary lecture courses, the subordinate task of filling in the gaps.

In some schools, this policy of combining related subjects has already, to some extent, been adopted. Precisely what subjects may wisely be combined is a problem the solution of which may depend in a measure upon local conditions, but the Committee recommends the general policy and invites discussion as to the particular courses to which its application is feasible.

III

Another question was referred to this committee with the option of considering it or not as we might deem best, namely—

Should law schools that require college work for admission attempt to prescribe, in part at least, of what that college work should consist, in order to assure to their students an acquaintance with those academic subjects most useful in the study and practice of the profession?

This question was the subject of a report made to the Association in 1909 by a committee consisting of Professors Lorenzen, Bates and Pound. The report, which was adopted, apparently without debate, was as follows:

Your committee appointed to suggest a program of university courses for students preparing for the study of law, recommends:

1. That students devoting only two years to such work take: English (Rhetoric and Composition) two years.

Latin or Greek, two years.

German or French, two years.

Mathematics, or a Natural or Physical Science, one year.

History, including English and American Constitutional History, two years.

Experimental Psychology.

2. That students devoting three or four years to such preparation take, in addition to the above, courses in Economics, Political Science, Sociology and other courses in History, Philosophy, and in the natural or physical sciences.

In making the above recommendations, your committee has been guided by the thought that the principal aim of the first two years should be to give to the student a thorough mental training. The informational side of courses, however useful, should be subordinated at this time to the primary object of teaching the student to think and to work. A few subjects thoroughly taught are of far greater value than a superficial knowledge of many. Bearing this principle in mind, the choice of courses will in the end depend largely upon the character of the student and upon that of the teacher. In the absence of particular considerations, the subjects recommended for the two-year courses are, in the opinion of your committee, best calculated, under existing conditions, to give the desired results.

Courses in Economics, Political Science and Sociology are strongly recommended because of their helpfulness to a thorough understanding of the law. It is believed, however, that their study should be in the main postponed until the third or fourth year of the prospective law student's curriculum.

The present Committee decided not to undertake a new report on this subject, but to recall the 1909 report to the attention of the Association as a basis for discussion, or, if deemed advisable, for reference to a committee for fresh consideration.

Ralph W. Aigler.

Walter W. Cook.

Edwin R. Keedy.

H. S. Richards.

Austin W. Scott.

Frederic C. Woodward, Chairman.

COMMITTEE ON THE JURISTIC CENTER

The Committee on the Juristic Center which was appointed "with power to invite the appointment of similar committees representing the courts, the legal professional bodies, and other scientific and learned bodies engaged in the study of substantive and adjective law and its administration, for the purpose of jointly creating a permanent organization for improvement of the law, and with power to name a time and place for the meeting of a conference of these committees," begs leave to report.

We invited to meet with us at the Bar Association of the City of New York on Wednesday, May 10, 1922, men representing all branches of the profession. In accordance with this invitation the following men appeared and took part in the meeting: Charles C. Burlingham, James Byrne, James P. Chamberlain, James P. Hall, Albert M. Kales, Edward J. McGuire, John G. Milburn, George W. Murray, John E. O'Brien, Thomas I. Parkinson, James B. Reynolds, Elihu Root, Henry W. Taft, George W. Wickersham, Samuel Williston.

There were also present, of the Committee on the Juristic Center, Messrs. Beale, Freund, Lewis, Morgan, and Stone.

Those present at the meeting constituted themselves a Committee on the Establishment of a Permanent Organization for the Improvement of the Law, the object of the Committee to be the preparation of a report on the establishment of such an organization and the work which it should first carry on, and the submission of the report to a representative gathering of the American Bar.

The Committee elected the following officers: Elihu Root president, George W. Wickersham vice president, George W. Murray treasurer, William Draper Lewis, executive secretary, and the following, with the officers, members of an Executive Committee: James Byrne, John G. Milburn, James P. Hall, Harlan F. Stone, Albert M. Kales.

On May 24th the Carnegie Corporation granted the Committee for the prosecution of its work \$25,000. The Executive Committee selected Joseph H. Beale, Hon. Benjamin N. Cardozo, Albert M. Kates, Samuel Williston, and William Draper Lewis to make a report on the method of procedure which should be adopted in restating the law with a view to its clarification, simplification and adaptation to the needs of life, with special reference to the scope of such statement, the immediate and ultimate ends to be attained, and the detail of the official steps to be taken; also the scope and organization of a permanent agency for the improvement of the law. Since their appointment the reporters have been at work on this report. The death of Professor Kales was a very serious loss.

Before starting in on the work the reporters met a group of persons, designated critics, in Cambridge, and devoted two days to a thorough discussion of the principal questions to be dealt with in the report. Besides the reporters (except Professor Kales, who was then ill), there were present at the Cambridge meeting George W. Wickersham, Henry M. Bates, Arthur L. Corbin, Joseph P. Chamberlain, Charles A. Boston, Thomas I. Parkinson, William E. Mikell, Victor Morawetz, James B. Reynolds, John E. O'Brien, Harlan F. Stone, and Herbert Harley.

It is hoped that the report of the Committee will be published and the plans for a representative gathering of the American Bar well under way by the time of the meeting of the Association of American Law Schools in Chicago.

All of which is respectfully submitted,

Henry M. Bates.

Ernst Freund.

Frederick Green.

William Draper Lewis.

Edmund W. Morgan.

Harlan F. Stone.

Joseph H. Beale, Chairman.

COMMITTEE ON RECRUITING THE TEACHING BRANCH OF THE PROFESSION

Since January 1, 1922, the chairman of this committee has received applications from

twenty-one prospective law teachers who at the time of writing were substantially without experience. Seventeen of these were fairly recent graduates of schools which are members of this Association. From time to time lists were made up from the records of the committee and supplied to those deans who asked for information. Only two of the above twenty-one applicants were placed, one in an Association school and the other in a non-member school.

Seventeen men already law teachers placed their names before the committee for help in making a change to another school. Two of these were part-time teachers in non-association schools seeking positions as full-time teachers. One was interested only in summer school teaching and not seeking a permanent change. Four were already planning to leave the positions they were then holding. Of this group of seventeen applicants three were placed through the committee. In all, therefore, thirty-eight men sought the aid of the committee of whom five are known to have been placed as a result. In several other cases offers were made to teachers or prospective teachers, but the offers were not accepted, because in the meantime the man suggested had been already placed.

The committee received requests for assistance in filing positions from eight Association schools and three non-member schools and supplied information in each case. It will be noted that during the past year eleven schools as against fifteen the year before availed themselves of the services of the committee. This might be due, not to any lessening of interest in the committee's work, but to the fact that there were fewer vacancies. However, the number of changes and appointments to fill vacancies shown by the information received in the preparation of the directory of law teachers seems to indicate that many member schools are not seeking to avail themselves of the information collected by the committee. Whether it is worth while to continue the committee in the present state of apparently slight demand for it, whether an effort should be made to increase the interest of member schools in its work, or whether it should be discontinued are matters which the Association might well consider. During the past year no effort has been made to circularize member schools or to recommend applicants except in response to requests from deans. The practice of last year's committee of keeping a file of letters from teachers and one from deans, and also a card index, has been continued.

As directed by the Executive Committee, this committee has undertaken the preparation of a directory of teachers in member schools. The West Publishing Company has kindly agreed to print such a directory without charge, the only conditions attached being that they might have a few advertising pages in the front and back of the book,

and that the committee gather all the material and edit it. They also agreed to mail a copy of the book to each teacher whose name appears therein. These very satisfactory arrangements were made by the committee with Mr. S. E. Turner for the West Publishing Company and the Committee wishes to express its thanks for his courtesy and help in the matter. At the time of the writing of this report the work of gathering the material and preparing it for the printer has been almost completed.

The only method available of collecting the material necessary for a directory of law teachers was the sending of questionnaires. As there was no mailing list of individual teachers the committee thought it best to reach the teachers through the deans of the various schools. Accordingly letters were sent to them last April with the necessary questionnaires inclosed. In order that the committee might have a check list, a list of each faculty was also asked for. The committee wishes to take this opportunity to express its thanks to those deans whose prompt co-operation brought an early response from all the members of their faculties. In some cases the questionnaires for the entire faculty were collected and mailed together. This was very helpful.

Responses, however, were not always so prompt, and therefore, it was necessary to mail a second set of letters in July and a third set in October. It is thought that a questionnaire has been delivered to every teacher in every school. At the time this report is being written the records of the committee show that three hundred and seventy questionnaires have been received and about fifty teachers to whom questionnaires have been given have failed to send them in. The questionnaires have been checked with the lists of faculties, where such lists have been furnished by the deans and the deans have been advised of delinquents. The committee thought that three calls for information were all it could afford to make. Consequently, if it is found that any names have been omitted it is hoped that the members of the Association will acquit the committee of any responsibility.

William C. Van Vleck, Chairman.

Armistead M. Dobie.

H. Claud Horack.

William Carey Jones.

A. M. Thompson.

COMMITTEE ON THE STATUS OF THE LAW TEACHER

This committee at the December, 1920, meeting of the Association made a full report covering the situation of the law teacher from almost every angle. It set out the characteristics of the better type of modern law school, the qualifications of law teachers, their work within the class room and without. It discussed the exacting nature of the

teacher's career, and the compensation he received. It would be superfluous in view of this thorough and able presentation for the committee to cover this ground again.

Since the presentation of the 1920 report salary increases have been made in a considerable number of the law schools here represented. In only one, so far as this committee has knowledge, has there been any decrease. We have not thought it necessary to present results statistically. They are more or less a matter of common knowledge and readily available to any law school administrator who wants them. This committee believes that with the possible exception of one aspect of the problem, the question of law school salaries, for the present at least, is a matter to be adjusted between the teaching staff of the individual school and the university administration, and that there is no helpful service which this committee can perform.

The exception noted concerns the relation of the compensation of law and medical men. It was shown in the former report that the great majority of the teachers employed by the member schools of this Association are full time men, devoting themselves almost exclusively to the work of teaching, research, and writing. There is now in the medical schools, it is believed, a distinct tendency in this direction both as to so-called "clinical" as well as "fundamental science" men. It is by no means our intention to depreciate the value of the services of the teacher of medicine, either to his institution or to society. Our point is that the law teacher is equally worthy of his hire. Each, if he gives full time to his school, gives up outside opportunities. The law teacher of merit and standing in his branch of the profession should not receive less than his medical brother of equal eminence. But sometimes he does.

The status of the law teacher would be further improved if his teaching and leadership extended more widely to the profession. The Bar is ready to accept the leadership of those who have the attainments and the time to aid in improving the usefulness of the profession to the public. The law teacher should cultivate contacts with the profession and severally and collectively aid the profession in a practical way in improving the law and the administration of justice.

The Cincinnati meeting of the American Bar Association marked a tremendous advance in legal education. The leaders of the bar in America have officially gone on record as favoring the line of preparation for the profession that this Association believes in and represents. That action, followed as it has been by the approval of the meeting of Bar Association delegates and some of our state associations, and as it will be by the further work of classification of law schools, opens to the law teacher a wonderful op-

portunity. The acceptance by the public and the profession, of the standards thus recommended will not await their adoption into legislation. Of this fact we already see evidence. The law teacher's opportunity is the more wonderful because of the short time which the modern law school has had to prove its value to the profession at large. The practitioner has given the professor a vote of confidence.

The task now confronting the law teacher is that of measuring up to the responsibilities he bears. If he is successful in that, his status will be firmly fixed on an important member of a useful profession. If he is unequal to his job, he will lose the confidence which the profession has placed in him. His future status is in his own hands. We doubt whether this committee, as such, can perform any useful function by its continued existence. The work to be done is that which must be participated in by the entire profession of law teachers.

Respectfully submitted,

Merton L. Ferson.

Everett Fraser.

J. Warren Madden.

James P. McBaine.

Roscoe Pound.

Warren A. Seavey.

Herbert F. Goodrich, Chairman.

COMMITTEE ON JURISPRUDENCE AND PHILOSOPHY OF LAW

The Committee on Jurisprudence and Philosophy of Law reports that, since the last annual meeting, volume 13 of the Series has appeared from the press, viz. *Philosophy in the Development of Law* by Professor Tourtoulon of the University of Lausanne, translated by Martha M. Reade, of Missouri. Miss Reade is a sister-in-law of Robert L. Henry, formerly Professor of Law in the University of Iowa, and later a Major in the United States Army, and now practicing law in Washington. Professor Henry originally undertook the translation, but it was afterwards placed in Miss Reade's hands. The translation is work of the highest grade. Professor Tourtoulon's volume is perhaps the most entertaining in the entire series.

Volume 11 of the Series is now starting in the press. Its title, slightly changed from the original prospectus, is as follows: *The Rational Basis of Legal Institutions*. Its scope is to set forth by selections from various philosophers, economists, sociologists, and legal writers, the pros and cons of the fundamental legal institutions, liberty, property, succession, contract, and punishment, rationally considered.

In these days of reconsideration of even the most sacred and fundamental things, it behooves the legal profession to equip itself with an intelligent understanding of all that can rationally be said and is being said

for or against our fundamental legal institutions.

Respectfully submitted,

John H. Wigmore,
Chairman.
Joseph H. Drake,
University of Michigan.
Ernest G. Lorenzen,
Yale University.
Albert Kocourek,
Northwestern University.
Floyd R. Mechem,
University of Chicago.
Roscoe Pound,
Harvard University.
Arthur W. Spencer,
Brookline, Mass.
Morris R. Cohen,
College of the City of New
York.

COMMITTEE ON LEGAL HISTORY

Your Committee on Legal History reports progress as follows: The Committee was appointed in 1905. Its first task was editing a publication of the Select Essays on Anglo-American Legal History. In 1909, it was directed to prepare, edit, and publish the continental Legal History Series. This series, as planned by the Committee, consisted of eleven volumes. Of this Series, eight volumes had been published by the date of America's entrance into the World War. Of the remaining three, the History of Continental Commercial Law, by Professor Huvelin, of France, has not yet been written in the original. The History of Continental Civil Procedure, by Chief Justice Englemann, of Germany, and other authors, has been translated by Professor Robert W. Millar, of Northwestern University, and the manuscript has just been sent to the publisher. The translator has included chapters also on Scandinavian, Italian, French, Ecclesiastical, and Scotch Civil Procedure, and the published work will be the first of its kind and scope in the English language.

The other volume, History of Italian Law is under translation by Professor Layton B. Register of the University of Pennsylvania. The original is by Professor Calisse, of Italy. The manuscript will be ready for the publisher in 1923. It is hoped that all Law School libraries are properly equipped with adequate sets of the Continental Legal History Series.

Respectfully submitted,

John H. Wigmore,
Chairman.
Joseph H. Drake,
University of Michigan.
Ernest Freund,
University of Chicago.
Ernest G. Lorenzen,
Yale University.
Wm. E. Mikell,
University of Pennsylvania.

SPECIAL COMMITTEE ON REFORM OF LEGAL PROCEDURE

Your committee has two matters on which it desires to report to the Association:

I. It reports that the editorial work on the Source Book on Modern Procedural Methods, which was authorized by the Association at its meeting two years ago, has been turned over to a subcommittee consisting of Dean John H. Wigmore, Professor E. W. Hinton, and Professor Herbert Harley, all residents of Chicago. This subcommittee has been making progress, but it will make its own report through Dean Wigmore, its chairman.

II. Your committee draws to the attention of the Association the following resolution which was unanimously adopted at the last meeting of the American Bar Association:

Whereas, one of the gravest duties confronting the judges and lawyers of America is an administration of justice that will command the respect and veneration of the people:

resolved—First, that Congress be and it is hereby respectfully petitioned to provide by suitable statutory law for the creation of a Commission, the personnel of which shall be appointed by the President and to be composed of two justices of the Supreme Court, two Circuit Judges, two District Judges, and three members of the bar of high standing and qualified by learning and experience.

Such Commission shall prepare and recommend to Congress amendments to the present statutes and the Judicial Code, authorizing a unit administration of law and equity in one form of civil action.

Second, that such act shall provide for a permanent Commission, created in similar manner, with power to prepare a system of rules of procedure for adoption by the Supreme Court, with power to amend from time to time.

Such rules and their amendments, after approval by the Supreme Court, shall be submitted to Congress for its action, and shall become effective in six months after such submission, if Congress shall take no action thereon.

If this resolution takes effect in the way pointed out by the resolution itself, or in any modified way, it will mean the adoption, for all civil causes in the federal courts, of a uniform procedure, under the principle of one form of action and under the principle of the regulation of legal procedure by rules of court; and it will follow that the procedure in the federal District Courts will no longer vary with that of the states where such courts are sitting. There seems to be no reason why a similar system of procedure should not be adopted in the several states of the Union. Rather, if we could have throughout the United States systems of civil procedure which are substantially the same both in the state courts and in the fed-

eral courts, it would be a result of the great value both to the profession and to litigants. Moreover, if we are right in the assumption that this explanation is something to be desired, it would seem that this Association as one organization of the profession interested therein, should do everything within its power to help to bring the reform in pass; and the recent action of the American Bar Association, with the preliminary work in England and the United States leading up thereto, would seem to make the present the psychological time for such action.

Your committee, therefore, recommends the adoption of the following resolutions:

First. Resolved, that the Association of American Law Schools indorses the action of the American Bar Association at its last annual meeting in San Francisco in recommending: (1) The passage by Congress of an act authorizing a unit administration of law and equity in one form of civil action; and (2) the passage by Congress of an act providing for the regulation of legal procedure through rules of the Supreme Court.

Second. Resolved, that the Association of American Law Schools approves of and urges the adoption by the various states of a like system of legal procedure, through the passage by the various state Legislatures of a short Procedure Act for civil causes, (1) authorizing a unit administration of law and equity in one form of civil action (where this has not already been done); (2) fixing the general theory only of pleading, evidence and practice; and (3) providing for the regulation of all other matters of legal procedure through directory rules of court, formulated, either directly or indirectly, by the state supreme court in conformity with such act and with the state Constitution.

Third. Resolved, that the Association of American Law Schools approves of uniformity as far as may be in legal procedure throughout the United States in both federal and state courts, and believes that as a necessary means of accomplishing this result some plan of cooperation should be worked out between the federal and state governments.

Fourth. Resolved, that the Association appoint a Commission to confer with the Commission which will be appointed under the above resolution adopted by the American Bar Association, or any similar commission appointed by the Supreme Court of the United States, as well as with committees of State Bar Associations, concerning the adoption of such a program as above outlined, and that the Commission report the result of such conferences at the next meeting of the Association.

Charles M. Hepburn.
O. L. McCaskill.
Sam B. Warner.
Hugh E. Willis, Chairman.

GENERAL SESSIONS

Below is given the principal part of the discussion at the first session held at the Hotel La Salle, Chicago, on the morning of December 28, 1922:

President Hall: The remaining amendments are proposed to article 6 of our Association. (See report of the Executive Committee, page 95.) It is the suggestion of the Executive Committee that the amendments to paragraph 5 be first considered, that after September 1, 1923, students who enter with less than the academic credit required of candidates for the law degree must be 21 years of age, and the number of such students admitted each year shall not exceed 10 per cent. of those first entering the school that year.

It was moved and seconded that the amendment be adopted.

Mr. Kirkwood: I move an amendment by interpolating the words "by section 2 of this article" after the word "required".

The reason for that is, while we admit students to our law school with 90 quarter units of academic credit, we require more than that for the degree, and this proposed amendment, as it stands now, is a little ambiguous as to whether the number of units required is that required by the Association or by the particular school. I take it it is the intention of the Executive Committee to mean the number required by the Association. If that is so, the interpolation which I have suggested will simply make that clear.

Amendment seconded.

President Hall: On behalf of the Executive Committee, that does so exactly as Mr. Kirkwood suggests. It makes the meaning of it more clear. It does not in any way change its meaning, as the committee intended it, but it does clear up the meaning. If there is no objection, the amendment will be presented to you in that form, with this insertion. This will make its meaning more clear. Let me read it as it should read:

"After September 1, 1923, students who enter with less than the academic credit required by section 2 of this article of candidates for the law degree must be 21 years of age and the number of such students admitted each year shall not exceed 10 per cent. of those first entering the school that year."

If there is no objection, that will be substituted for the present amendment, for the purpose of discussion.

Mr. Chafee: I think something might be said for the suggestion that it should be 10 per cent. of the year before, or 10 per cent. of the average of the preceding two years, rather than 10 per cent. for that year, so it may be possible to determine in advance how many specials are eligible for the year just opened.

President Hall: It was pointed out to the Executive Committee, after these amendments were first circulated in print, that a school could not determine very accurately how many students it was going to register in a given year. Specials might come in in the early part of the registration, and you would not know whether to admit them or not. It was therefore suggested that, instead of 10 per cent. of the current year, it be 10 per cent. either of the preceding year, or the average of two or three preceding years. That suggestion commended itself to the Executive Committee.

Mr. Chafee: Just for the sake of discussion, I move that it be amended to strike out the words "those first entering the school that year," and put "the average number of students first entering the school during each of the preceding two years."

Amendment seconded.

President Hall: Those in favor of substituting the clause just read in the amendment for our consideration say "aye."

Motion is carried.

President Hall: Are there any remarks upon the amendment as now changed?

Mr. Dalzell: I want to suggest the amendment that after the last word "year" in the section we add this clause, "unless such 10 per cent. is less than five students, in which case five such students may be admitted."

I want to point out that in the smaller schools, where the entering classes are very small, that the probability is that the law of averages will not work, and that while in the larger schools 10 per cent. may be sufficient, in the smaller schools we may very well have three or four or five persons who would be entitled to entrance, or who should be allowed to enter, and that it would be a detriment in some cases to forbid such students to enter, and therefore, to take care of that situation, I move that we amend this to add, "unless such 10 per cent. is less than five students, in which case five such students may be admitted."

I may make a remark in this regard that, as regards the Order of the Coif, they have exactly that provision in the election of members to the Order. The provision is that 10 per cent. of the graduating class may be elected, unless less than three, in which case three such students may be elected.

Amendment seconded.

Mr. Vold: I want to make this suggestion on behalf of the North Dakota Law School. We are one of the smaller schools in this country who would be affected, but, in my judgment, this substitute provision would be injurious to the possibilities of the standing of such schools. If we have an enrollment, and admit to membership students who are prima facie not qualified, such a large number of students may disconcert the atmosphere and destroy the quality of the work we are trying to do. Therefore, so long as I

am in charge there, I shall see we do not make such a provision.

Mr. Dalzell: As regards the temptation, I agree with Mr. Vold that in certain cases, and probably the majority of the cases, it would be detrimental to admit that large number of special students to a small entering class; but I want to point out, if the motion is passed without the amendment, it will take away from the administrative officer all discretion in the matter of admitting the student; whereas, if the amendment is passed, the administrative officer will have such discretion in admitting the students, and I think it is up to the administrative officer to use such discretion in admitting such students.

President Hall: We vote by schools on the amendment itself, but, unless a demand is made, we vote on this by delegates.

Member demands a vote by schools.

Secretary Jones called the roll of schools, on recommendation of President Hall, again calling names of schools whose representatives cast no vote in the first call. The vote was as follows:

Ayes: Cornell University College of Law; Creighton University College of Law; Emory University; Lamar School of Law; George Washington University Law School; Marquette University College of Law; Stanford University Law School; Tulane University of Louisiana College of Law; University of Chicago Law School; University of Colorado School of Law; University of Florida College of Law; University of Idaho College of Law; University of Missouri School of Law; University of Montana School of Law; University of Oklahoma School of Law; University of Oregon School of Law; University of South Dakota College of Law; University of Tennessee College of Law; University of Texas School of Law; Vanderbilt University Law School; Washington and Lee University School of Law; Washington University School of Law. Total—21.

Noes: Columbia University School of Law; Drake University College of Law; Harvard University Law School; Indiana University School of Law; Northwestern University Law School; Ohio State University College of Law; State University of Iowa College of Law; Syracuse University College of Law; University of California School of Jurisprudence; University of Cincinnati College of Law; University of Illinois College of Law; University of Kansas School of Law; University of Michigan Law School; University of Nebraska College of Law; University of North Dakota School of Law; University of Southern California School of Law; University of Wisconsin Law School; Washburn College School of Law; West Virginia University College of Law; Western Reserve University, (Franklin T. Backus Law School; Yale University School of Law. Total—21.

President Hall: The vote is a tie, 21 to 21, so the proposed change is defeated.

Member: I move to substitute in place of the words "10 per cent." the words "15 per cent."

Seconded.

I have in mind the situation of the schools in cities like Chicago and St. Louis, where there are evening schools, and a large number of them. I don't care to take any time, except to state what I think is perfectly obvious to most of us, that a rigid rule of this kind restricting the number of special students simply drives the student who is right on the line over into the evening schools. We have that experience in St. Louis. I have no doubt it is true in Chicago. In thinking over the numbers in our first-year class, the numbers our special students, and seeing just where 10 per cent. would land and just where 15 per cent. will land, I am sure that in our case, and it is probably true in other places, the 15 per cent. rule rather than the 10 per cent. will make a difference in some case where it is desirable to do so.

President Hall: Are there any further remarks?

Mr. Trusler: Mr. President and gentlemen, I consider this the most important of the proposed amendments to the articles of the Association. I know many of you have attended many meetings. This is my first one. I know probably you understand pretty well the sentiments of this assembly. If I had been here more times, doubtless I would. But I also know that it is possible to keep repeating one idea so much we seem to lose sight of the other side. Therefore, as quickly as I can, I ask your indulgence to present my views of this proposed amendment.

I favor the proposed amendment that has been just made, with the exception that I should make it 20 per cent. What harm do special students do, that they are to be practically eliminated in many schools, and kept from becoming regular students? This is seldom the case. It is my experience that all boys want a degree, and they qualify to get it, if it is at all practicable.

Do special students reduce the scholarship? I suppose that is generally said, but I think not necessarily. In my experience, and I wonder if it is not the experience of many, some special students are leaders in scholarship, and, if they cannot do the work, it is very easy to get rid of them. I submit that proposition.

By allowing special students, do we mislead the public? These special students are given the opportunity to learn the law, if they can, but they are not turned out with the seal of the college's approval upon them. A special student I regard as analogous to a quitclaim deed. The purchaser of the services of such a person takes with him pos-

sible imperfections, so far as the law school is concerned.

Now, what good will result from practically excluding special students from the schools? It will restrict the field of usefulness of law schools. They cannot educate so many students, and I think we generally agree that a knowledge of the law is the best preparation for a citizen for citizenship, for business, even for social service. I would like to ask you where are the young men and women who want a general knowledge of law for their own business or for other reasons, not to prepare themselves for the practice of law, where can such young people get an education in law assuming, of course, they are not prepared, and in many cases circumstances make it impossible for them to have the one or two years of college work; where are they going to get the general knowledge, unless they can get it in the law school as special students? You may reply they can get it in schools of commerce. But I suggest they are inadequate. Besides, they are not bound to any state school.

Then I say we would work a special injury to a class of boys constituting the bulk of special students in many schools, vocational students, men whose education has been interrupted by war, whose earning power had been impaired, and who are granted just enough assistance to finish a law course.

Thirdly, if we practically exclude special students, in some schools it will cripple the law school, and thereby cripple its service to its regular students. I beg those of you who come from institutions large and adequately supported financially to keep this in mind, that a state school receives maintenance from the state. With a handful of students, the state is reluctant to put much money into the enterprise, and the university itself tends to subordinate the interests of the poorly attended college to the interests of the liberally attended one, on the principle of the greatest good to the greatest number. Hence, the poorly attended law school suffers in the financial support of its library and its faculty, the teachers are underpaid and have too much to do, and this is an injury to every student in the school.

Again, the above injury is especially acute in the case of schools just exacting the requirement of one or two years of college work. Their incoming classes will be very small, perhaps ten, twenty or thirty men, and to allow 10 per cent. or as it is proposed, of such number to be special students, is to afford practically no relief to them.

Lastly, the Legislature of the state dictates the policy of the state school; in some states exacting two years of college work of regular law students is a higher standard than the predominant public opinion approves. I say that is so in some states. And

I also suggest—we are, I know, trying to put into effect the recommendation of the American Bar Association—but I suggest that there is no state to-day that by legislation has put it into effect in its entirety. Now, the state schools, I say, state schools from the many sections where public opinion does not predominate, will support this move, be willing to require the two years of college work, if you will let the state schools say this to the people, if you will let the state schools say, "We are not excluding your boys as students; we are not denying them a law education; they can enter as special students; it is a mere matter of a degree." This is a safety valve for popular disapproval, and I think it should be allowed until the popular disapproval abates. A law, as you know, higher than public opinion sanctions, will be broken, and a school higher than public opinion sanctions will be broken, too, and I suggest that it may be the case that some of the schools in these sections will be obliged to withdraw from this Association. I know this is not going to break this Association, but I suggest that more than half of the students of the country are educated in law by schools outside this Association now, and it will increase in number. More than that, if a school is obliged to withdraw from the Association on this account, the school probably will go back to practices, certain practices from which it has refrained while it has been a member of the Association, and thereby, while it will not break the Association, the cause of higher legal education, it seems to me, will be impaired. Therefore I wish these remarks, in conclusion, to be applied, in support of the amendment just suggested of 15 per cent.

When this is disposed of, I should be glad to amend for 20 per cent.

President Hall: Are there any further remarks?

Mr. Vold: Mr. President, on behalf of a small school once more, the University of North Dakota School of Law, I want to take issue with any suggestions that are made from this floor, or from any other source, that we can improve the legal education in any case where the matter is vital by relaxing these requirements. I am at this meeting for the first time, like the man who has just preceded me, but I have had some experience in the law school with which I am connected, and we have there gone through the period of raising our own requirements from high school work to two years of college, and I hope, before the year is out, we will go through the stage of making that the rule of admission to the bar. However, pending that arrangement, we ought to administer the law schools in such a way as to secure the maximum benefit for those who are admitted to the bar, to make capable lawyers out of them, instead of handling our schools so as to turn out those who are not

going to become lawyers. That is one of the most pernicious elements in the administration of law school affairs, this idea on the part of anybody that we have two alternatives, two ways of admission, one the regular way, and one the special way. It has been our emphatic experience that those who did so regard the admission to the law schools have tended to deteriorate the school body as a whole, and impaired, possibly, the school's work.

President Hall: Those in favor of substituting 15 for 10 per cent. in the proposed amendment, say "aye."

Motion is defeated.

Are there any further suggestions? If there are none, the motion as it now stands as amended is open for debate. As the motion now stands it reads as follows:

"After September 1, 1923, students who enter with less than the academic credit required by section 2 of this article of candidates for law degree, must be twenty-one years of age, and the number of such students admitted each year shall not exceed 10 per cent. of the average number of students first entering the school during each of the two preceding years."

Are there any remarks upon the proposed amendment as amended?

Mr. Benedict: I would like to see this Association take the stand that no specials whatever should be admitted. I represent a small law school. We have adopted that standard in Cincinnati. This fall we had 13 students in our first year, a great falling off. We turned down over 125 applications, so we are one of the schools that are seriously affected by this position which I take. The American Bar Association met in Cincinnati a year ago, and they adopted certain standards. The lawyers from all over the country were represented there, and they think a man is not qualified in this age—not in the age of Lincoln, but in this age—of being a good lawyer unless he has attended a law school for three years, virtually a day law school, and has had at least two years college work. That is what the lawyers said.

In the February following there was a convention of lawyers from all over the United States and some from Canada held at Washington. Mr. Root was the principal speaker, and that convention was held for the purpose of determining what measures could be taken toward getting the Legislatures of the various states to adopt such standards, and committees were appointed to act in the various states to try to get the Legislatures to adopt the standards that the American Bar Association has adopted.

Now, we are either for that standard or we are not. There is no middle ground. I take it that, as a vote, we would say we were for that standard. I don't know whether any vote has ever been taken on it

or not. It is the first time I ever attended a meeting. But I take it we are for those standards.

Now, then, what are we doing if we receive specials who have not the qualification? We, in this Association of American Law Schools, which should stand for something at least as high as what the lawyers want, we are trying to get men to the bar that have not the qualifications that the American Bar Association say they ought to have. And it will affect the law schools, it will make the attendance small, and it will keep out a great many men, it will keep them away from the bar, and that is what it ought to do. These law schools that have a great crowd, getting a great many men to the bar—and we have them in Cincinnati—are a menace to the community. Talk about educating men to be good citizens; they are educating them to come to the bar and prey upon the community. They are not good citizens. They may know some law, but it does not result in that way; they use the title of lawyer as a stepping stone to get office; some of them get out on to the bench, unfortunately. We either should stand for something, or not stand for it, and if we profess to have high standards, and at the same time open up our schools and receive young men whom we will not give a degree, why, it seems to me that is tyranny, not to give them a degree. If we receive them, we ought to give them a degree. We are taking a body of men into our school that we say are not fit to be lawyers, because they lack certain qualifications; that is, if we accept what the American Bar Association has said, and trying to get them admitted to the bar, although in each state there are committees who are now trying to get the Legislatures to adopt the higher standard. If we cannot stand for as high standards as the American Bar Association, I do not know what we are an Association for. I have heard it said it might cause certain schools to withdraw. Well, we might as well disband altogether, if we cannot stand for correct standards.

President Hall: Are there any further remarks?

May the Chair call the attention of the members to the fact that, as the Articles of the Association now stand, there is no limit on special students, so that voting for this places a limit upon it for the first time. Defeating it, leaves it as it is at present, without limit.

Mr. Benedict: I didn't make my remarks, expecting they would accomplish any immediate results, but I wanted to state to these assembled hosts what my views were, so they could do something about it.

If I thought there was the least hope of getting my amendment through, I would move to amend, and substitute as an amendment, "that no special student should be ad-

mitted, having any qualifications in any respect different from the students that were candidates for degrees." I make that as a motion at this time.

Amendment seconded.

Mr. Dalzell: The remark has been made that the law school ought to stand for as high standards as the American Bar Association stands for, to which I agree, if it were possible. But I submit that at the present time it is not possible. The Legislatures do not live up to those standards, and the students whom we do not admit as special students do not fail to become lawyers. They go to the night schools, or at least the large proportion of them go to the night schools. Perhaps I should say they go to the poorer schools. The two are not exactly synonymous. If we could keep them from becoming lawyers by excluding them, I would agree heartily; but under the present circumstances we cannot do so. In theory the remarks which have just been made are perfect, in my opinion; but in practice they will not work. The situation which we have before us is not the situation where we have control of legal education. We have to combat the night schools, and the whole question is whether we shall take a suitable person, who may or may not be suitable for a degree, depending upon the school, but whom we think would be a benefit to the community as a lawyer, and more of a benefit if educated in one of the better schools than if educated in one of the poorer schools. Theoretically, I am in favor of no special students. Practically, I am in favor of some.

Mr. Benedict called for a vote by schools. The roll was called, with the following result: University of Cincinnati College of Law, University of Illinois, College of Law, and University of Kansas School of Law voted in the affirmative. All others voting (43) voted in the negative.

President Hall: We now recur to the amendment as finally altered.

Secretary Jones called the roll of schools on the amendment. Forty schools voted in the affirmative, and the following six in the negative: Creighton, Marquette, Northwestern, Florida, Illinois, Montana.

Mr. McCaskill: May I call for an interpretation of the amendment, whether it does or does not apply to summer schools. There has been a custom in some of the summer schools to let down the bars with reference to entrance requirements. I simply ask for information as to whether it does or does not apply to summer school technique.

President Hall: The Chair does not know. So far as I recall the discussion in the Executive Committee, no one raised the question of summer schools, which are not a part of the regular year of the school.

Where the summer quarter is a regular part, as it is in some of the schools, I suppose it would apply. Where your summer session is frankly something that is not a part of the regular year, I think it would be debatable whether it would apply or not.

Mr. Schoetz: I arise to the same question as to whether it would apply to night schools.

President Hall: The night school is run really as a separate school, and as permissible to schools already members of the Association?

Mr. Schoetz: Yes.

President Hall: Of course my own interpretation of it has not the slightest binding effect on the other members of the Association, but my guess would be that it did not apply.

The next article of amendment is that to paragraph 1 of article VI that no law schools shall be elected to membership in the Association unless they comply with the following requirements:

1. It, shall be a non-proprietary school, controlled by persons having no pecuniary interest in the school, and must not be conducted for profit.

The Secretary wishes to make an explanation regarding the intention of that.

Secretary Jones: The Executive Committee realized the difficulties of phrasing this paragraph, if the words be used as words of art, and therefore the intention of the Executive Committee, I think, was clearly this, that the words were meant in their customary sense, in the meaning which we ordinarily get from the use of such terms as "must not be conducted for profit," for example.

Mr. Ferson: I venture a suggestion. The committee may have already considered it. If I understand the amendment proposed, it would, of course, prevent any law school exploiting the students for commercial purposes; but I wonder if it would prevent a university conducting the law school for a profit and using the profits in other branches of the university. That, of course, is a thing that is not commonly done; but universities have been known to do it. The school I happen to be connected with has been through that, so I make this suggestion without a personal bias in the matter. I do not think that it is going to happen in the future. But medical schools, for example, require there shall be an income of about \$25,000 or more outside student fees, and arts colleges, I believe, in their association require something like that. Would it not be well for the law schools to require that at least the student charges be expended on legal education?

I shall not put a motion, which would take time to dispose of in a parliamentary way, unless there is some sentiment favorable to

the idea. I simply venture the suggestion, in order that some other school might not be sacrificed on the altar of political education, or something like that.

President Hall: Are there any further remarks?

Mr. Harno: Some of us have had some difficulty in understanding just what a proprietary or a non-proprietary school is. Must a proprietary school be one which also necessarily is conducted for profit? I think not, and, if that is the case, our objection is not to a proprietary school, as such; but our real objection is to a school which is conducted as commercial enterprise and where the salaries of its teaching force depend upon the fees received and upon the number of students.

I wish to call your attention to the language used by the Conference of the Bar Associations meeting in Washington last February. It passed this resolution:

"Resolved, that the National Conference of Bar Associations adopt the following language with regard to legal education: 'No. 3. Further, we believe that the law schools should not be operated as commercial enterprises, and that the compensation of any officer or members of its teaching force shall not depend upon the number of students or upon the fees received.'"

I take it this language is clear, and I also understand that the Executive Committee has attempted to form a resolution in accord with the principle here announced, and I should like to propose and move as a substitute for the language proposed by the Executive Committee, the following: "It shall be a school not operated as a commercial enterprise, and the compensation of any officer or member of its teaching staff shall not depend on the number of students nor on the fees received."

Motion is seconded.

Mr. Breckenridge: Do we understand this amendment has been acceptable to the Executive Committee?

President Hall: This is the first time I have seen it, this morning; but my first glance at it impresses me very favorably.

Is there any debate upon it?

Mr. Isaacs: May I suggest that this language be referred back to the Executive Committee for their consideration, before we vote on it?

President Hall: It is moved that this proposed substitute be referred back to the Executive Committee for consideration before voting. That would mean, of course, we would take it up at the afternoon meeting as we shall have to do with a number of other matters.

Seconded, and, on a standing vote, carried.

The Executive Committee will endeavor to consider it this noon and report this afternoon.

SECOND SESSION

Thursday, December 28, 1922, 2:20 P. M.

President Hall: The first thing on the program this afternoon was to be the President's address, but, inasmuch as it is probable that we can finish up the piece of business we were on when we adjourned for luncheon in just a few minutes, we might get that out of the way.

The Executive Committee met at luncheon and approved the substitute suggested for the amendment to Article VI, paragraph 1, so that the resolution now before the meeting is the substitution for the amendment proposed by the Executive Committee, printed in italics at the top of page 13 of the program of the one suggested by Mr. Harno, reading as follows: "It shall be a school not operated as a commercial enterprise, and the compensation of any officer or member of its teaching staff shall not depend on the number of students, nor on the fees received."

That has been moved and seconded and is before you for substitution. Are there any further remarks?

Motion to substitute was carried.

Now the motion recurs upon its adoption as an amendment to Article VI. Are there remarks upon that?

Upon a vote by schools, motion was carried.

It is the painful duty of your President each year at this period to deliver an Annual Address, and mine is as follows:

The President then delivered his annual address. (See page 61.)

The next topic is the report of the Committee on Curriculum, Mr. Woodward, Chairman. (The report is printed on page 96.)

President Hall: Two gentlemen have been asked to lead the discussion of the President's Address, and of the report of the Curriculum Committee, which concerns substantially the same subjects. I will ask Mr. McMurray to start the discussion, if he will.

Mr. McMurray: I think that most of us will heartily agree with the report of the Committee on Curriculum, and with the portion of the address of the President, substantially concurring therewith, which condemn the mere acquisition of information as an educational ideal. As I understand the report, and the President's remarks, this position means that this Association, as far as it lies within its power, insists that whatever be taught in the law school curriculum should be treated with thoroughness, whatever is attempted to be learned by the student should be so learned as to become a permanent part of his mental equipment.

With this general approval of the committee's report, and the President's remarks on the subject, very little remains for dis-

cussion except the constructive proposals in the second part of the committee's report, and in the President's address. The consideration of the third section of the committee's report dealing with pre-legal education, is, I take it, scarcely profitable, since it involved a subject upon which this Association can at best reach only an *ex parte* conclusion, and one that should be properly discussed and deliberated in some group only where there is adequate representation of other educational interests.

There are, however, one or two implications in the original resolution that I believe may profitably be referred to before taking up the affirmative proposals in the report. That resolution, and, as a consequence, its discussion by the President and the committee, has, to my mind, made too striking and absolute an antithesis between information and discipline, as if there were something irreconcilable in the two ideas. Of course, neither the President nor the gentlemen who constitute the committee, in their teaching hold up either mere information or mere discipline as an ideal. What they, as teachers, want is that the student should have a critical knowledge of the subject studied by him. I take it they are neither primarily interested in the training of legal athletes, nor in the production of walking encyclopedias. The phrase that refers to the teaching of certain courses, with primary emphasis on discipline, seems to me to carry us rather dangerously near to that system of legal thinking ridiculed by Von Ihering to a system that separates the spirit from the body, recalling Mr. Justice Holmes' comparison with little bodiless cherubs floating at the top of one of Correggio's pictures.

The matter, I admit, is one of words, and I do not believe that the conclusions of the committee are colored by the assumption to which the language lends authority that there is opposition in the nature of things between discipline and information. I mention the emphasis laid upon the distinction only because there is a possible danger as our law schools continue to develop on the academic side, that methodology may be exalted to a position where the law of the school shall cease to be the law of actual life. Anything that tends to encourage or bring about that result, I think should be combated.

Another implication in the resolution is that there are "standard," and, by consequence, "non-standard, courses." Practically all law schools, of course, do teach certain courses, and certain subjects are generally regarded as entitled to fuller treatment, and are given more credit than others in the curriculum, but I should not for that reason call these standard courses. Again, I fear, I am criticising a word; but it seems to me a word fraught with consequences. I recognize a distinction between general sub-

jects like Contracts and Constitutional Law, and special subjects like Bankruptcy or Admiralty, Sales and Insurance; but I regret that the committee and the President have spoken of "standard" and "less important" subjects.

My objection to the use of the word "standard" is that standardization means the death of science, freedom, and progress. Who is to settle what is canonical and non-canonical, or even worse, canonical and deuterocanonical? To illustrate the dangers, that lurk in such language, one need not go beyond the report. Two members of the committee, for example, indicate that they regard Bankruptcy and Insurance as among the non-standard courses. Are we prepared to say that Insurance is less important, from either a scientific or from a practical point of view, than Bills and Notes? In my practical experience, though that is perhaps of little worth, I have found neither of much value; the law on both subjects seems to fall into the hands of specialists, so far as practice goes, and I must confess almost equal ignorance on both subjects, because it has not been my fate to require much knowledge of either. I recognize, however, that both involve institutions fundamental in the modern commercial society. The negotiability principle, which I suppose is the central theme of the law of bills and notes, has remodeled large portions of the modern law of carrier and sales. On the other hand, the insurance principle has no less been extended so as to reconstruct whole sections of the law of torts, suretyship, and master and servant. The majority of the committee recognize that these particular subjects should not be the corpora villa upon which the experiment of informational teaching should be tried, though they, too, concur in the use of the expression "standard" course.

The use of such an expression is, to my mind, undesirable. If legal education is to develop broadly, we should not use language that implies that one subject is less dignified or worthy of respect than another. On the contrary, we should encourage the teacher who desires to develop a special subject or a special method, or who has the patience, ability, and courage to experiment with one of the general subjects, to carry out his experiment with sympathetic appreciation. Our system of legal education needs, I believe, more freedom, less conventionality, more experiments.

The constructive proposals, more elaborately developed by the President than by the Committee's report, open the way, I believe, to useful reforms in teaching methods, and in the remodeling of the curriculum. The suggestion is made that the experiment be tried, in some of the less fully developed courses, of eliminating from classroom discussion all but the more difficult portions of the subject. In this way a greater number

of courses will be available to the student. Dean Hall estimates that where we could, under present conditions, cover six such subjects, we might, with the saving of time effected by process of editing, cover, say, ten, enriching the content of his law course by permitting the student to exercise to a greater extent than he can at present his faculties of comparison.

There are two other reasons, in addition to those mentioned by Dean Hall, why the recommendation, in my opinion, might profitably be adopted and applied, perhaps, not only to specialized courses, but, to some extent, even in the case of those courses covering larger fields. One of these reasons is, that by reducing the amount of time devoted to the classroom work, the student might be put more upon his own responsibility than at present. Portions of subjects not discussed in the classroom could be left to be worked up by the student, and he could properly be held to a knowledge of them on the examination, or, indeed, to a knowledge of portions of any other subject that the teacher might deem pertinent. I fear that in American higher education generally we have left too little to the initiative of the student. The discussion of problems involving knowledge of principles and cases acquired by independent study would have the effect of stimulating the student's self-reliance.

One of the greatest of living English poets has said:

"If way to the better there be,
It exacts a full look at the worst."

The method of instruction by the case system, as applied especially in the subjects that have been longest taught by that method, is not what it was in the days of Langdell and Ames. Books ranging all the way from cribs to excellent treatises framed on the outlines of our greatest teachers and legal scholars, articles and notes in law reviews, ancient sets of abstracts of cases, with the results of former class discussions passed down from generation to generation of law students, well-worn copies of casebooks annotated on the margins with memoranda (often startling in their inaccuracy) of the professors' pet theories, and with the salient passages in the books carefully underscored in particolor ink, all these aids, legitimate and illegitimate, have reduced the task of the learner. He has been relieved from the job of dragging out for himself the principles buried in the cases.

Another thing also has happened. In many subjects the number of hours devoted to the course has been enlarged. While the amount of material employed in these courses is probably no greater than it was in the seventies or eighties, and while the student to-day has added to his diet prepared mental food, just referred to, which he will devour in

spite of warnings that he is thereby ruining his intellectual digestion, it takes more time, in many instances, so far as respects classroom instruction, to cover the same ground that it formerly did. The teacher is, in all probability, using the additional time in teaching.

Now the case method is, as Langdell always asserted, primarily a method of study, not of teaching. Paradoxical as it may seem, the teacher's business is not to teach. It is rather to direct, to guide, to stimulate the student's curiosity, to leave questions and difficulties fermenting in his mind. If the curriculum is carefully revised in line with the suggestions of Dean Hall, one of the best results might well be to require of the student greater effort than is now demanded of him.

Another benefit that I believe might result from Dean Hall's suggestions is the possibility of procuring a better balance between various parts of the curriculum and permitting the introduction of the student to subjects which may seem to him of no practical importance, but which are possibly fraught with consequences of significance. Twenty years ago students were generally disposed to avoid the study of such subjects as Constitutional Law, Conflict of Laws, where they had an opportunity of electing what seemed to them more practical courses. I think today the point of view of the student has changed; he has come to recognize the importance of these subjects, though possibly he thinks he won't have immediate practical occasion to use them in his practice. He has found in them a new intellectual discipline, the opening of wider vistas in legal life, the stimulation of what may be called legal imagination. A like group of studies, even less directly practical than Constitutional Law, are at the door waiting to become fully naturalized. I refer to such subjects as Public Law and Jurisprudence, both Historical and Analytical, so sadly neglected by our schools, our bench, and our bar.

Why should not the candidate for a degree in our law schools be required to present a program showing the completion of a certain proportion of studies, not only in Private Law, but in Public Law and Jurisprudence as well?

Recently I ran across a report of the curriculum announced by Judge Story in 1842, at Harvard Law School, and it seemed to me that that report in some respects outlined a curriculum richer in scope and content than that prevailing in our law schools to-day. It is rather interesting to note that Story planned his course, for two classes of students: One, "for gentlemen preparing for the bar," the other, "for gentlemen intending to go into commercial life," and the curriculum was different in the two cases. In the case of the course of study prepared for those intending to become members of the

bar, the curriculum "embraced not only the various subjects of Public and Constitutional Law, Admiralty, Maritime, Equity, and Common Law, which are common to all the United States," but also "Illustrations of foreign jurisprudence." Possibly Story's program was more high-sounding in its prelude than in its performance, though no less competent critics than Richard Henry Dana and Benjamin R. Curtis both found delight in following these courses of instruction "as a system of philosophy." At least Story's plan proposed a balanced ration for the prospective lawyer. Have we not neglected this feature in our modern law school? May it not be desirable to reconsider its adoption?

President Hall: The discussion will be continued by Mr. Kirkwood of Stanford University.

Mr. Kirkwood: Mr. President and Gentlemen: I am in hearty accord with the President's suggestion that we make it possible for students to cover a larger portion of the courses offered in our law schools than now seems reasonably possible. Indeed, the present situation in the law schools seems to me somewhat more serious than the President has pictured it. I regret that I have not had the time to go through the announcements of each member of the Association. I have had to confine myself to a few schools. I have, however, gone through the current announcements of five member schools, namely, Harvard, Yale, Columbia, Chicago, and Stanford, with a view to getting some sort of a picture of the situation, at least as it exists in that group of schools. And I take it that what is true there, will be true in a considerable number of other members of the Association.

Now, I rush in where apparently the President has feared to tread. I submit a list of courses which seem to me to be of prime importance. What I mean by prime importance is this: Not that they should be categorically required of every student, but that they should be taken, under ordinary circumstances, by the normal student in our law schools.

In that sense, it seems to me that the following courses can fairly be treated as of prime importance: Contracts, Torts, Criminal Law, Agency, Real Property (without specifying just what subjects, let us say to the extent of ten semester units), Constitutional Law, Conflict of Laws, Sales, Negotiable Instruments, Private Corporations, that portion of Equity dealing with specific performance of contracts, Trusts, Pleading, Evidence and Practice.

Now, I realize that there will be great difference of opinion as to the inclusions and exclusions involved in that list. I make such a list, however, in order that I may have something tangible to deal with. I find that in the five schools mentioned there is an average of 67 semester units devoted

to this group of courses, which I have labeled as those of prime importance. I find, also, that these five schools require, on the average, 74 semester units for the first degree in law, and, on the other hand, I find that these five schools offer and open to candidates for the first degree in law an average number of 129 semester units in law.

Now, that shows two or three things. If my list of courses of prime importance is a reasonably accurate one, it shows that in these schools the normal student has time for but 7 semester units of the courses of so-called lesser importance, out of a total of 62 units of such courses actually offered. Included in this group of so-called courses of lesser importance are the following: Personal Property, Administrative Law, Municipal Corporations, International Law, Restraint of Trade, Admiralty, some more Real Property, Water Rights, Mining Law, Domestic Relations, Quasi Contracts, Public Utilities, Partnership, Insurance, Suretyship, Mortgages, Special Equitable Remedies, Damages, Bankruptcy, to say nothing of Legal Ethics, Legal History, and Jurisprudence, in which latter courses very few schools in the Association offer any great amount of instruction open to candidates for the first degree in law.

Now, as to the remedies which have been suggested, by which the normal student is to be enabled to take a larger part of these courses of so-called lesser importance. I agree with the President and with the majority of the Committee that it is unwise to give purely informational instruction, and, proceeding on that assumption, we have left, therefore, the second alternative, which contemplates the combining of certain related courses, and the elimination of some less important topics in other courses. There is, to my mind, no doubt that a certain amount of time can be saved by these methods.

Along the same general line there is another suggestion which occurs to me. I think we will find, if we go over our curriculum thoroughly, that there is some rather unnecessary duplication. The faculty of my own university, Stanford University, last year held a series of conferences on the first year law courses. Our purpose was to acquaint each other with what we were doing in our first year subjects, with a view to correlating the work a little better, and to readjusting, if necessary, the work of the first year with that of the second and third years.

We found, as might be expected, that there were some topics not being taught as fully in the first year courses as the faculty as a whole thought they should be. We found, on the other hand, that there were some topics being taught in two or more courses from much the same point of view.

I venture to say that that duplication would, on a careful survey, be found to be more serious in the second and third year

courses than it is in those usually offered in the first year, because it is in the second and third year courses that the extension of the curriculum has taken place, in large measure, in recent years, by the addition of new topics.

To refer again, if I may, to our own school, we found that the minor topic of Dedication was in considerable measure being duplicated in the course in title to Land, and in Municipal Corporations, and by readjustment between the instructors of those two courses a little time was saved in each course. I venture to say that in many schools some duplication will be found in the treatment of such subjects as Rescission of Contracts as taught in the course in Contracts and in Equity, and the problem of recovery of money paid under mistake, as it is taught in Quasi Contracts.

It has seemed to me possible, also, in the case of such a broad topic as the Statute of Frauds, to have a rather thorough treatment of the statute in say two courses, and have it touched upon somewhat more lightly in the others in which it became important. And I may say that I think all these things should be tried. But I submit that when all possible combining of courses has been done, that when all possible deletion of minor topics has been accomplished, and when all possible duplication has been eliminated, it will still be found that the student cannot cover a substantial part of the list of courses of so-called lesser importance. Any estimate, of course, of the amount of time that can be saved by these methods, is a pure guess. For myself, I should expect that the maximum time to be saved would not exceed 25 per cent., and some of my colleagues (at least with reference to their own courses) feel that that is unduly high. Assuming, however, that we could save 25 per cent., how far along the road would that take us? It would mean, on the basis of the figures which I referred to a few moments ago, that we would thereby enable the student to cover from 20 to 22 units of these courses of so-called lesser importance, rather than 7 which he now gets. Take the higher figure. As I pointed out a few moments ago, the five schools mentioned offer 62 units in such courses. If our student is now enabled to take 22 of those, there remain 40 units which he cannot take.

I realize that it is not necessary that every student should have every course in the curriculum. The man who expects to practice in Colorado probably has no great need for Admiralty, and the man who lives in many of the far Eastern states probably has no serious need for intensive instruction in such courses as Water Rights and Mining Law. But the remaining courses on that list are of rather general value, and, if they are worth giving at all, it seems to me that it ought to be made possible for a student to get a sub-

stantial part of them say from a third to a half of them, and I don't believe that the devices suggested, good though they are in themselves, will accomplish that result. And it seems to me, therefore, that we are forced back to the old problem of extending the law course.

Now, I realize that the problem of a four year law course has been before this Association in recent years, and has been discussed at great length, and it is not my purpose to reopen that discussion. There are one or two things about that discussion however, which it seems worth while to point out. Apparently the discussion has assumed that the alternative is a three or a four year course. Apparently, also, the discussion has proceeded on the principle of a required minimum for the first degree in law. Now, are either of those things essential? Isn't it possible to permit a student, without requiring him, to take more than three years of law, and less than four? Speaking more particularly with reference to the course very common among member schools, the six year combined course, as we refer to it, ordinarily requiring three years of academic work and three years of law, isn't it feasible to provide a scheme whereby the student who feels that he wishes a larger amount of law may be able to get it? We have been trying some experiments of that general character at Stanford for nearly two years. Our particular scheme, for which I hold no special brief, is this: We still retain as the required minimum for the law degree three years of professional law study, but we permit a student to count as high as three and one-half years of law toward that degree if he wishes, which, of course, means a corresponding reduction in the amount of academic work which is required.

Suppose that we should open three courses, Contracts, Torts, and Criminal Law, as illustrations, to college juniors. Now I realize that that will meet with some objection. There are those who don't believe that the academic work should be cut down. There are those who don't believe in the intermingling of law and academic work, which this suggestion involves. Into those objections I cannot enter at this time and place. Just let me say that, as far as our experience is concerned, it has seemed to us that they are not as serious objections in actual practice, as they might seem to be in theory. From our present point of view it is clear that, if we should open those three courses to college juniors, we make it possible for the student who elects to take those courses in his junior year to spend 16 semester units on this list of courses of so-called lesser importance.

By combining some such scheme as that with the suggestions which the President and the Committee have made, it seems to me that we go far toward alleviating the pres-

ent situation, at least, and, frankly, I don't believe that any lesser measure than some such combination will accomplish the result that some of us at any rate desire.

President Hall: The discussion is now open to the meeting. Is there not some one else, with some ideas that need airing?

Mr. Dalzell: I do not know whether we have encountered any difficulty from the academic department in getting them to let juniors take those three courses and count them in addition to the work done in the senior year for credit towards the A. B. degree. I understood that his proposal was to allow men who are taking the combined course to take three courses in the junior year. I think that would be a fine idea, if you could prevail on the people in the academic department of the University to permit that.

Mr. Kirkwood: I may simply say, for ourselves, we have not met any difficulty on that score; but I can see readily that it might arise in institutions organized on a somewhat different basis than that with which I am connected.

President Hall: Are there any other volunteers?

Mr. Hallen: It seems to me that this problem might be looked at from one other angle. I can see this angle. I don't think that any one has approached it very much from the standpoint of the human side. It simply comes down to this: Cut down the academic work, and let them take that much more law. He started off with: "Let them take an extra half year law, if they want to; let them take the extra half year law in addition to the college work." No one objects to that, but no student will do it. You have to recognize it from that angle; you have to recognize the fact that ninety-nine students out of one hundred want to get through as soon as possible. If you have a student that is willing to put in that half year more, that is not the type that you have to worry about. The average man that will not do it is the one.

Now, I think it doesn't make very much difference what words you use there. I think, though, that specialization on discipline is likely to give rise to one objection in the law schools. Specialization in that alone would require perhaps ten hours worth of work, if he is an A-1 student, and you put in six. Now there is a tendency, I think, to specialize on the discipline side to the strongest degree, to make their great point their lecture, and a student can follow the class room discussion and read a letter, or read what assignments are made, and which are discussed in class, and with that he can get by the course. He may not get by as he should; but he will get through, and he will pass a bar examination. Now, the question is whether or not the school is justified in turning out that type of man. I think the

most sickening sensation I ever had in my life was, after taking a couple of courses in which I didn't do very much outside work, and then passing the course in a fairly satisfactory manner, and then immediately taking the bar examination on that subject they asked me questions which I didn't have any idea came under that subject.

Now, the original question of outside work was touched upon especially. It was said, "you can ask a man to do outside reading;" but, when you do that, you to some extent give up the benefit of your case system. Your case system is better than your lecture system, or your technical system, all the way through. It may be there is a greater difference in Contracts than in Suretyship. Now, isn't it possible to get onto some kind of middle ground? Assuming that Contracts is a more fundamental subject than subjects like Sales, Suretyship, or anything else that you might cite, wouldn't it be possible for the instructor in the latter course to assign a larger amount of work, even in casebook work, even though he simply touched on one question involved, than he has? Why wouldn't it be a simple matter to force more work onto the student in the preparations? After all, make the student work to accomplish something. I think there is room in every law school in this country to force a greater amount of reading day by day. I think that too great assistance on the subject is likely to make him lose sight of that possibility.

President Hall: Are there any further remarks?

Mr. Freund: Had I been a member of this committee, I should have been strongly tempted to meet the question, not with an answer, but with a demurrer, for the reason that it seems to me clearly to appear, from the phrasing of the main question in the introductory paragraph—that is, when you speak of "largely from an information point of view, and only secondarily, if at all, with disciplinary objects"—you try to solve the faults of teaching, as proposed to be covered or described by those expressions. I don't know what your experience may be in your classes, but I find that my students are as eager for information as they are for discipline. That may not be your experience, but it is mine. These students want to know something about the law as it is, quite irrespective of the substance of reasoning. You can go back for centuries and find examples. The scholastics of the Middle Ages were, I believe, unsurpassed in the keenness of their reasoning processes. What they lacked is breadth of information. Information is what we want to get to our law students, in order that they may form sound judgments. You cannot get sound judgment on the basis of correct reasoning only. What you need is a large background of information.

Now, I quite agree there are certain courses that will continue to be taught and studied effectively only upon that which we call the case method, because they are of such a character they can best be handled by that method. That is not true of all, distinctly untrue of some. I have been giving instruction on the basis of casebooks, first of Woodruff, and then of Kales. It seems to me that a student comes out of that course ignorant upon a number of very vital subjects upon which he ought to be informed. He doesn't know what the policy of our legal system is with reference, for instance, to divorce on grounds of cruelty. We may give him something, even, as far as that is concerned; but, if you want to get a student to know how the subject of cruelty is handled in our courts, you would better put him on the information issued by the Labor Department of this country about twenty years ago, which shows altogether what the courts did with that term of "cruelty," than put him on two or three cases. But he has no conception, it seems to me, as to what the principle of our standard law is with reference to divorce, nor will you, by simply putting him through cases with reference to divorce, give him any idea of how our law handles the entire problem, with all its needs and requirements, the interests of employment, and a lot of other things that a student ought to know about. So it is with the problem of husband and wife. That makes a very interesting problem at the present time, with the removal of the disabilities of the married woman and the more or less perfect adjustment of the married woman to her new rights with reference to her obligation to her husband. I don't believe that you can put a student on the basis of any of the casebooks that exist at the present time, if you put him through an examination upon certain vital questions with regard to the adjustment of our family law, in our modern law, I don't believe he would be able to answer questions that, to my mind, seem to be of vital importance, and those questions, it seems to me, while, in a sense, they give him information, also place him in a position where he can form judgments upon questions that arise.

Exactly the same thing, it seems to me, will arise with regard to criminal law. I ask whether it is not true that, finishing a course of criminal law, and putting to a student who has been through the course creditably such questions as, "How does our law treat the subject of fraud in criminal law, as distinguished from the law of torts? Or, "How do we deal with the problem of mitigating circumstances?" "What is the policy of our law at the present time with reference to homicide, and does it meet the conditions of actual life?" These are all questions upon which the law student ought to be informed.

It wouldn't do to say that is a matter for the criminologist, because, if the criminologist tries to handle those things, the lawyer will step in right away and say, "He knows nothing about the law, and is therefore incompetent to deal with it," while the lawyer has for his conclusions a broad background of knowledge and information, if you can call it so, which he can get only from studying the Criminal Code of the state, and which he can never get from the cases as they are selected in our casebooks.

I just came from a luncheon meeting at the City Club at which the speaker, a professor of Harvard Law School, told us that they proposed to buy the latest revisions of the statutes in the different states, and Dean Langdell objected to that as a needless expenditure of money. That was the sublimation of the case system, wasn't it? Now to what extent to-day are they used? The students go out of our law schools, trained, I admit, and I don't desire to minimize the wonderful training that you get out of the study of case, but it seems to me it is not one-half of it, there is some amendment which ought to be taken care of in our law schools, and which at the present time is not.

President Hall: Is there any further discussion?

Mr. McCaskill: I am heartily in accord with the theory of the majority report, that only the more difficult problems of the so-called less important courses should be handled in classroom work, but there is one phase of the question that hasn't been touched upon that has been troubling me a great deal, and that is this. The term "difficult problems" is a relative one. A problem which which would be relatively lacking in difficulty to a student who had had four years of academic training, and a student of some degree of maturity, would be a problem of considerably more difficulty to a student who had had say, for instance, only two years of academic training and had a less degree of maturity.

It strikes me in discussing this question we cannot leave out of consideration the fact that we have different types of law schools in our minds. For the type of law school that has the graduate student, a type of instruction can be carried on successfully, leaving a great deal more for the student to acquire through his outside reading and his undirected research than would be possible in a school having only, say, two years of college entrance requirements. That type of student, it will necessitate with him a different kind of handling in the classroom, that is not at all necessary with the more mature student, and the student with greater academic requirements.

The discussion, it seems to me, is intensely interesting. It is very informing. It is a discussion which ought to be prolonged, but

it strikes me that it is a discussion that will be very difficult to lead to any resolution on our part, because of the varying conditions. Although I am comparatively a baby in arms in the teaching field, as compared with some of my brethren here, I have had some experience in teaching in schools of the graduate type, in teaching in schools with the one year entrance requirement, in teaching in schools with the two year entrance requirement, and in teaching in schools, summer schools, where you get all kinds mixed up together, and, so far as my own personal experience is concerned, I have found that I have had to adapt my type of teaching to the type of student that I had, and while I have believed thoroughly in taking up only the more difficult problems, I have found that I have had to handle some things that seemed to me very elementary, with certain types of students, because they found it difficult.

So that it seems to me that the very important feature that ought to enter into our discussion is: Can we define with any degree of certainty the class of problems in any course which we would call difficult, without taking into consideration the preliminary training that the student has had, and the maturity?

President Hall: Is there further discussion? I don't understand the Executive Committee is asking for a vote or a resolution with regard to this. This was meant to be discussed, just for our mutual benefit, in exchanging views upon the matter, so, if any of us are inclined to experiment, we may, at any rate, have the convictions and the suggestions of those who have been interested enough to speak.

We have some business left from the morning. (See report of the Executive Committee, page 95.) The third paragraph of article vi it is proposed to amend in the manner stated in italics.

I may say, just by way of summarizing it, that this is an attempt on the part of the Executive Committee to suggest an amendment which will make night schools eligible to the Association, by placing their work, so far as it can be done, upon at least a quantitative par with that of the day school, and it is done in the manner there indicated. "A full-time school shall require of its candidates for the first degree in law resident study of law during a period of at least three years of thirty weeks each, and the completion of seventy-two credit hours in law. A credit hour in law shall consist of at least fifteen hours of classroom instruction."

"A part-time school shall require for the first degree in law a course of resident study that, in the opinion of the Executive Committee, is equivalent to the requirements for a full-time school. A school whose instruction is chiefly given after 4 p. m., or which regularly requires less than twelve hours a week of class

work from its students, shall be considered a part-time school. The action of the Executive Committee under this subsection shall in each instance be reported to the Association at its next annual meeting, and shall stand as the action of the Association until set aside by a vote of a majority of all the members of the Association."

The proposed amendment is now before the meeting. If some one will make a motion for its adoption, in order it may be debated.

Moved the amendment be adopted.

Seconded.

Let me call your attention to some suggestions made (see report of the Executive Committee, page 96) of possible changes in the wording of that, particularly the one reading "that a full-time school shall require of its candidates for the first degree in law resident study of law during a period of at least ninety weeks, and the successful completion of at least 1080 hours of classroom instruction in law." That puts it upon an hour basis, instead of putting it upon a basis that has to be retranslated by schools that are not upon a semester system. It comes to the same thing mathematically, but that is a little more universal way of stating it, perhaps.

Another suggestion in this connection is that the minimum should not be as low as 90 weeks, but be at least 96 weeks, which would mean 32 weeks in each year, exclusive of Christmas, Easter, and summer vacations.

Mr. Kirkwood: I would like to move as a substitute the suggestion as read by you. Motion to amend was seconded.

President Hall: It has been moved and seconded that the wording in Roman type, which I read a moment ago, be substituted for the first paragraph in italics under subdivision 3. (See paragraph 4 of the Report of the Executive Committee, page 95 of this Magazine.)

Mr. Hudson: I am afraid I don't understand what is the proposal.

President Hall: Look under subdivision 3. A full-time school is defined as one that requires the study of law during at least three years of thirty weeks each, and the completion of at least 72 credit hours of law, a credit hour to consist of at least fifteen hours of classroom instruction.

The suggested amendment requires of its candidates the study of law for a period of at least 90 weeks, and the completion of at least 1080 hours of classroom instruction in law. There it is stated in terms of classroom hours, and can be used by a school on any basis, you see.

Mr. Hudson: Well, Mr. Chairman, if you state the parliamentary situation, is there before the Association a motion to adopt all of subdivision 3? The two paragraphs?

President Hall: That motion was first made. Now the suggestion is that the first

paragraph of that be amended in the terms stated in paragraph "a." (See page 96.)

Mr. Hudson: Then the question is on the adoption of the amendment.

President Hall: It only changes the form of the other for final presentation.

Mr. Hudson: We have before us, then, a motion to adopt paragraph "a"?

President Hall: As a substitute for subdivision 3 [page 95], but an affirmative vote on that doesn't mean the articles are amended. It simply changes the form of the amendment for presentation.

Mr. Hudson: So the substitute is only for the first paragraph?

President Hall: That is all.

Mr. Kirkwood: Does that substitute mean that work can be taken during 90 consecutive weeks? As I understand the original proposition, it seems to intimate that perhaps schools following the rules as stated in subdivision 3 would interpret that three years to mean three calendar years.

President Hall: That is a possible interpretation, but the other interpretation has always been the one given to similar language in the original articles. We have all had schools on the quarterly basis, we have had summer schools, and part of the work there has been continuous.

Mr. Kirkwood: Then the substitute would encourage this course, completing the law course in 90 consecutive weeks, which might not be always desirable.

President Hall: I don't see it encourages it, because it has always been considered that a school that gave four quarters a year was really giving one and one-quarter year's instruction, within the articles of our Association.

Question being called for, the motion to substitute was voted upon and carried.

President Hall: The amendment now before us for adoption consists of the statement in Roman type: "A full-time school shall require of its candidates for the first degree in law resident study of law during a period of at least ninety weeks, and the successful completion of at least 1080 hours of classroom instruction in law," plus the longer second paragraph in italics under heading 3.

Now, as thus stated, are there remarks upon the amendment?

Mr. Hudson: Mr. President, may I ask whether the present Executive Committee has attempted to form any opinion as to whether there now exist schools as part-time schools, requiring for their law degree resident study that is equivalent to the requirements of a full-time school?

President Hall: I am not accurately informed upon that, but I have the impression there are in several of our large cities law schools sponsored by the Y. M. C. A. law schools that have been organized with the advice and assistance of members of the fac-

ulties of some very good schools in this country, that do, in fact, require a larger number of hours, and that are quite comparable with the schools of the Association.

Mr. Hudson: Are there Y. M. C. A. law schools requiring more than three years for their degree now?

President Hall: I think there are.

Mr. Hudson: We discussed this question at length, as I recall it, this last year, and it was my impression at that time that Mr. Beale, who has given a good deal of thought to this question, had concluded there were no night schools whose work could be said to be the equivalent of the work of a full-time school, within this definition.

President Hall: I think, in fact, that is true. There is no school examined by our Executive Committee that would at present comply with it, but I think there are a few schools that require more than three years, only the total number of hours then required wouldn't yet come up to the 1080. Wasn't there at one time a Y. M. C. A. school in Boston that required four years—perhaps still does?

Mr. Hudson: If this amendment should carry, I understand we would be making a pretty large departure from our history in the past in this Association, by admitting the night schools to membership. Is that true?

President Hall: That is true, but the departure consists merely in this: The night school must comply in all respects with our present revised requirements, consisting of two years of college work for regular admission. I think none of them now require that. The completion of a certain number of class hours.

Mr. Hudson: Is that in effect to-day?

President Hall: One year in effect now, and two years in effect in 1925, and the requirement about library and faculty, as well as this requirement that the number of classroom hours they give shall equal that requirement for a full-time day school. That is a pretty severe requirement, taken all together.

Mr. Hudson: Would you explain to us, on behalf of the Executive Committee, the general purpose of this amendment? It seems to me to be somewhat hypothetical, in that I may not be informed about some of the night schools; but I thought there were very few night schools, if any, in this country, which could, by any possibility, be brought within this requirement for membership, even if we pass this amendment.

President Hall: That is at present true, but we hope—I don't know upon just how convincing grounds—that it may not be true in the future.

Mr. Hudson: I think we ought to have, on behalf of the Executive Committee, a statement as to the foundation of that hope. I would like to have you tell us what are the night schools that have a chance of comply-

ing, or that would immediately offer some prospect of attempting to comply with this new requirement for membership, if we should adopt it.

President Hall: The Y. M. C. A. schools in several of our cities are non-proprietary schools; they are not managed for profit, and some of them subsidized to a certain extent. We think it not impossible that one school in each of our larger centers of population be encouraged to raise its requirements, although a night school, to those of our Association. If so, they would probably draw the cream of the men who now attend night schools in our cities, and who feel they must do so. In that way you would have in each of our larger cities at least one night school as good as a night school can be, and we thought that a desirable thing, seeing we are going to have night schools with us indefinitely.

Moreover, the American Bar Association recommendation didn't distinguish between a night school and a day school.

As you know, our Association has been criticized for making the discrimination between the time of day in which a man did his studying, between attending a day school and doing his studying after working hours, in the evening. That is not all there is to it, of course; but that criticism of our position, the verbal statement of our position, has a good deal of weight with a considerable number of people, and when the Bar Association and ourselves are about to make a concerted effort to get courts and Legislatures to adopt for admission to the bar the requirements that the Bar Association has suggested, it seems important there be no substantial differences between our position and theirs; otherwise, the opponents of both will immediately say, "Why, you don't even agree among yourselves."

Mr. Woodward: I would like to hear from the representative of a Y. M. C. A. school here, Mr. Johnson.

Mr. Johnson: I have been connected with one of these Y. M. C. A. law schools since 1910. I could give you a history of the school, but it would take a long time. I came last year to this Association meeting a day early to get to see the Committee, and get that Committee to make a recommendation that a night law school that had complied with the requirements of this Association might become a member of it. They made that recommendation. A part of it was a tie vote; another part of it had one vote against it.

I am here again to do what I can to have the school with which I am connected become a member of this Association. By the year 1925 we can comply with every recommendation, and everything that you ask. We have now in our own school two years of college work, done by the faculty of a college, a

member of the Northern Association of Colleges, recognized by that college, and by any other college in this country. We can comply, we want to comply, with all the rules of this Association.

Now, I have traveled some, and I am going to tell some tales out of school. When I commenced to teach law I visited the classes in Columbia, in Michigan, the University of Chicago, and a number of others for a whole week and listened to the teachers, and, God bless you, you have poorer teachers in each one of those schools than the best we have in the Y. M. C. A. Law School in Youngstown, poorer in scholarship and poorer in teaching. I sat there for a whole week and listened to them teach, as well as to sit by those that did the teaching in my own school, and there are poorer schools in this Association, day schools, than the best night schools that I can name. And I have gotten so utterly out of patience with the idea that a man cannot learn at any other hour of the day except from 8 to 12 in the morning, when I know that one of the ablest scholars in this country studied all night, and he is a professor in Harvard.

I want you fellows to understand that half of the men of this country do their best work at night, intellectually, after they have spent their morning hours playing golf or doing something else. And we will comply if you let us in; that is, if you will give us any reasonable hope that we can ever get in.

Now, that five thousand volumes doesn't mean anything, not at all; five hundred good books are worth more than twenty-five thousand that are not good.

Mr. Hudson: Mr. Johnson, if you will permit me to interrupt you a moment? If we should pass this amendment to-day would you tell us how it would assist you at Youngstown in maintaining or raising the standard of your school? Would it assist you?

Mr. Johnson: I think so.

Mr. Hudson: Will you tell us how.

Mr. Johnson: Well, in the first place, we depend, like, I think, all non-proprietary schools, upon the support of the public. The more reputation we get, the more donations we get. That is finance. Nothing succeeds like success. If you will allow us ever to hope to get into this Association, somebody will give us the money to buy the other 2,500 good law books that we need, and they will give it to us within six months. They will do many other things that they will not now do. Youngstown has no other school, except that conducted by the Y. M. C. A., no other college. If you will give us an opportunity to get a reputation and look like we are somebody, we will get lots of money. That is item No. 1.

When we have money, we can get a facul-

ty, without any doubt; and when we have both money and a faculty, we can do good work, and they are sure to come.

I have talked to a great many people on this question. I believe that the Y. M. C. A. Law School will, within three years, be a member of this Association, if you will give us a chance.

Now, I will answer any questions; but I have worked so hard to get an opportunity even to say what I felt about it, that I don't want to spoil the thing by saying too much.

President Hall: It is not often that both prudence and vivacity are so well combined in one.

Mr. Kirkwood: Aside from these particular cases, and special instances, we have just considered, it seems to me that this situation in connection with the night school is somewhat similar to the proposition we voted on this morning; that included in subdivision 5, referring to special students. It seems to me that the cases are analogous. What we are doing now is merely providing a sort of safety valve by which the Executive Committee may allow to come into this organization schools which are of an exceptional class, but are sufficiently qualified to meet our standards. It seems to me we are placing the discretion in the Executive Committee, which is a responsible and a reliable committee, and, if we adopt this resolution as it is prepared, I think we will do a great deal to carry out our general purposes; that is, we will be prepared to meet the situation in which a night school has perhaps raised itself to the general standard of the day school. It seems to me that there is a considerable movement in this country, as in England, toward adult education, through extension courses and night schools and other institutions of similar kinds, and if that movement gains headway, and these night schools are able to set up a standard, I should like to see a regulation of this sort in our By-Laws or Constitution which would enable the Executive Committee to admit to membership such schools.

I therefore indorse this proposition, from that point of view, leaving out of consideration all special and particular cases at this particular time.

President Hall: Let me ask the Secretary to make a statement in regard to the matter on behalf of the Executive Committee, because he has handled the correspondence, and he is more familiar with the technical details, etc.

Secretary Jones: During the past year I have had at least eight inquiries from that many different part-time schools with reference to the method by which they might comply with the requirements of the Association and become members. Part of these schools were Y. M. C. A. schools, and one of the inquiries was from a general executive officer in the educational work of the Y. M. C. A.

I think all of the schools were non-proprietary, with one exception, in which case a man more closely connected with the school than any other told me they would be very glad to place the school in the hands of a Board of Trustees.

There is no question but that there is a good deal of interest among the part-time schools in what is the attitude of the Association of American Law Schools on this question. There is no question that there are at least seven or eight that appear quite anxious to comply with the requirements which satisfy the standards of the American Bar Association, and thereby secure, if they can, the recognition of standardization, which they feel that membership in the Association of American Law Schools would give them.

Mr. Hudson: Can you read us the American Bar Association requirements under this for part-time schools?

Secretary Jones: I couldn't, without looking it up. I could find it. Here it is: "The American Bar Association is of the opinion that every candidate for admission to the bar should give evidence of graduation from a law school complying with the following standards: (a) Require as a condition of admission at least two years of study in a college. (b) Require the students to pursue a course of three years' duration, if they devote substantially all of their working time to their studies, and a longer course, equivalent in the number of working hours, if they devote only part time. (c) Shall provide an adequate library," etc.

Mr. Hudson: Would the Secretary think it is a discreet thing to do to give us the names of those eight schools that have sent inquiries. I think the proposition is opposed by people who say that it is a hypothetical thing; that no actual cases are going to arise under it soon. I should like if we could have all the information possible.

Mr. Bruce: It seems to me that there is an element of expediency in this. There has to be fair play, and the appearance of fair play. The real fact of it is that what legal education means in America is the raising of the standards of admission to the bar. It is absolutely necessary to bring over the Legislatures, it is absolutely necessary to bring over the members of the judiciary committees, and if they feel that there is unfairness anywhere, once let them feel that the night schools are unfairly discriminated against, and the American Bar Association, and the Association of Law Schools, have absolutely nothing left.

On the other hand, if they are made to feel that all they are after is raising the standards, and insisting on the proper requirements for recognition, and that the field is open to all who can comply therewith, then we, in a measure, have a field to work upon. I can't see any objection, I don't care

whether there are any schools that are able to meet the requirements or not—I see no objection to making it possible for those schools that can meet the requirements to come in. We are dealing with a practical thing. I know the situation in Minneapolis and St. Paul. I suppose there are 900 there studying law—and I am proud of the students studying law—there are 900 there; 300 are in the day schools, and 600 are in the night schools. Those 600 are more influential in politics than those 300 in the state university. I happen to know that the head of one of those night schools is the power behind the throne. He has a tremendous power, if he can get the argument of unfairness—that here is the hardworking student, who works in the day and can only study at night, being discriminated against, and he can block, and they do block, every effort to raise the standards of admission to the bar. I am simply saying that we have to have an appearance of fairness, and we have to be fair, if we are going to accomplish the thing that is the biggest thing of all, and that is raising the standards of admission to the bar. We have to admit to-day that the vast majority of lawyers don't come from these other schools, but from the night schools.

President Hall: Might I just say the remarks of the last speaker seem to me to be extremely good, political, plain, common, human sense.

Mr. Doty: I represent one of the four universities here in the city of Chicago. We have a school with two departments, a day school numbering 140 students at the present time, an evening school numbering about 280. According to the tabulation which some of you may have seen in the recent issue of the American Law School Review, we rank second in numbers in the schools of the state of Illinois. We are not a member of the Association, and I hadn't intended to say anything until the situation developed as it has. We have the casebook system, we have a four-year evening school, which has ten and one-half hours of work per week, and makes more than the requirements stated in the resolution. We have a minimum requirement for our first degree in law of 84 semester hours classroom work. We have a resident faculty of more than three members, and I trust that we could meet the requirements of the Executive Committee as to their quality. We have a library of more than 5,000 volumes, and again, with all due modesty, I believe that it would meet the requirements of the Executive Committee as to a working library.

We were one of the schools—not this year, but last year—that made application to the Secretary to find out what would be necessary, what we could do, in order to become a member of the Association. Our school has improved quite considerably in the last several years, and we were believing that we

could see our way clear to become members, as we had hoped to for several years.

We don't, as yet, have a two-year college entrance requirement; but we had been planning for several years a one-year college entrance requirement when the movement all over the United States took form for a higher entrance requirement, and, to a certain extent, we have been waiting to see what that movement would mean, because of a knowledge of what the effect would be upon the other evening schools in the city of Chicago and upon ourselves. We don't discourage any of the other evening schools in the city, or anything of that kind; but, following the suggestion of the President that, in the event this movement took place, there would probably be at least one evening law school in each one of the great cities that, with the help and assistance of the various members, would be able to comply with the standards, and make an opportunity educationally for the student who couldn't go to a day school, we had hopes of being that particular educational center for the city of Chicago, and we still believe, especially if the movement for a general rise in standards takes form throughout the country, so as to put pressure upon schools of lower standards generally, and direct the attention of the prospective student to the schools requiring more, that we can do that. And while we cannot be sure we could do it by 1925, we hope we could, and I should be glad, if the Association saw fit, to leave us at least an opportunity to work for.

Mr. Campbell: Gentlemen, I haven't taught law for very many years; but the longer I teach it seems to me that the study of the law is a full day's job. Now, we have men coming into Harvard Law School who are doing work on the side. That is not quite the night law school situation. We have men who spend say perhaps eight hours in the preparation of their lectures, and attending lectures, perhaps doing four hours' work on the side. Now, those men are at a positive disadvantage. It shows in their examination. They are the sort of men who are obliged to make petitions at the end of the year for continuance in the school.

The more I think of it, therefore, it does seem that the study of the law is the work of a full day. Now, I understand that the practical situation with men attending night schools is probably this. They are obliged to work eight hours at their regular vocations. It is impossible for me to see how they can put in more than four hours in their night study, and in their night lectures. Now, it doesn't make any difference how many hours of lectures are given in those schools; it is a question of how much time is spent in preparation, in review, in preparation for the examination.

Now, would any night law school, do you think, be willing to require six years of work

as a preliminary for a degree? It seems to me that, if it would, it wouldn't have any students; no one would take that length of time. Yet it doesn't seem that six years' work in a night law school, as things go in a night school, normally would be the equivalent of three years in a full-time school. Isn't it true, then, that this proposed provision is largely a hypothetical matter? The attitude of most of the members of our faculty, the Harvard faculty, is in opposition to night schools, and in opposition to this resolution; that is, they take a position that missionary work is proper, but that the night school, with all respect to the gentleman who has spoken, and of his efforts, that I have no doubt he has put forth most sincerely, their position is that the night school cannot be converted into a proper law school, and I believe in that, for the reason that the men don't have the proper time to study. They take the position, therefore, that there is a difference in kind between the two schools, the full-time schools and the part-time schools, and for that reason a large majority of our faculty are opposed to this.

I should say, in justice, however, that Mr. Heale favors the resolution. He is, I understand, the father of this movement, and is still strongly in support of it. Mr. Pound is further of this opinion that the night schools are weakening. Now, I presume these gentlemen will not agree with that; but his position is that the night schools are weakening, and that nothing should be done now to encourage them, and a matter of this sort will be an encouragement.

Member: Do you have at Harvard any students who are compelled, by circumstances, to work their way through school, and who nevertheless are able to finish their school in the course of three years?

Mr. Campbell: Yes, I will answer that in the affirmative. And we have some good men—I suppose there are some men present here to-day who did more or less work in going through Harvard Law School; but how much better work could those men have done, if they had been able to devote all of their time to the study of law.

Member: If it had been impossible for them to come under those ideal conditions, and they couldn't have gone to a night school, how would they have been able to procure an education at law?

Mr. Campbell: It seems to me that, if a man is needing money, the ideal way for him to get through is this: To earn enough money for his first year; then he can come in and can obtain a scholarship, and that, supplemented with what he can earn in the summer time, will put him through the next two years.

Member: Unfortunately, we are not able to do exactly that thing.

Mr. Campbell: I believe that a man could profitably take off that year to put him

through the first year. We are receiving men in similar circumstances, we have sixty needy men in the first year.

Member: Why don't you shut them out?

Mr. Campbell: For the reason we have no control of what a man does outside. It would be impossible for us to govern a man's outside activities at all.

Member: Why isn't the same thing true with the Association?

Mr. Campbell: I take it we must be governed by the normal situation. Our school and your school, I presume, are not catering to the same people, that is, people whose regular jobs are at something else, and who are studying law as a side line; whereas, I think the night law school must do that, and that is its function, isn't it?

Mr. Throckmorton: The objection now seems to me to be that no night school would be able to meet the opportunity. In either case, does it meet the points made by the gentleman over here, that the essential purpose is just as a safety valve, to give an opportunity, if Mr. Hudson and Mr. Campbell should be mistaken? I don't see any objection that remains after that.

Mr. Vold: I am one of the men who graduated from the Harvard Law School some years ago, working my way to earn all of my expenses throughout my course, and I am now in a position where I can contribute considerable on that basis, and the contribution that I am making in North Dakota, and which I hope will be useful, is to try to get the North Dakota Legislature to adopt the American Bar Association standards. I have a few copies, which I was able to get the day before I started, of some pre-prints that we are going to put in the hands of the Legislature. One of the arguments which I am stressing very strongly there is that the students that we prepare are students who earn their way while they are going through, and the American Bar Association standards do not shut out the man who is willing to work, and, if we cannot make that argument stick, I don't think there is any chance of getting their standards through anywhere in this country. But we make that point, on the basis of the statistical information which we have gathered, and carries over a number of years.

So far as our own position is concerned, it runs I think about fifty-fifty; fifty per cent. of our men are earning their way, either wholly or to a fairly substantial extent while they are carrying on their day school work. I am aware there were considerable numbers in the Harvard Law Schools in my day that were doing the same thing, and there are probably numbers in every school that is a member of this association, and it has always been a mystery to me how we could distinguish between the man that was working his way and still upholding the quality of his work, and the man who has less ability, who

can simply contribute enough to pass the minimum requirements by putting in all his efforts; that is, so far as this proposition is concerned, we have differences in ability as well as differences in funds, when a man starts working, and he is endowed with enough ability, so he can do more than the man whose circumstances are such that he can pay his way without working, and so he can earn his way while he goes through—and he is doing it in the day school, all the time. If he does it in the day school, why can't he do it in the night school? And in the judgment of those competent to pass on the facts, they do accomplish what is accomplished in the day schools, and I can't see why that is undermining the foundations on which this Association stands, or on which the education of this country stands.

Mr. Stone: Mr. President, it is very rare that I find myself in disagreement with you, and I am very sorry to find myself in disagreement with you at this time, the more so because I think I agree with most of the points made in your paper on this subject.

I quite agree that the movement on the part of the night law schools to lengthen their course and make it approximately equivalent in point of hours so that of the full-time school should be encouraged. I quite agree with the report of the American Bar Association. I think those ought to be encouraged. I should be very glad to vote for a resolution by this Association approving and indorsing them. I should be quite willing to become a member of an association, for my school to, in which night schools seeking to conform to those standards should also be admitted. All of those points I agree with.

But it seems to me not to follow at all that those things should be accomplished by changing the Constitution of this body so that night law schools should become members of this body, and it seems to me also that a good deal of the discussion on this subject has been somewhat beside the point. Whether we should do that or not, it seems to me depends upon what the main object of this body is.

Now, I think you will agree with me, if you look at its past history, or, at any rate, its recent history, that has been to promote a certain type of education. Now what is that type of education? It is the education of the full-time school, conforming approximately, as nearly as may be, to university standards. There is need, of course, for an Association of that type, because the schools interested in that type of education have a common interest, and they can only make that common interest effective by belonging to an association of like-minded schools and of like-minded membership.

Now, no one supposes for a moment that the night school has that object. If we needed any proof or illustration of it, we had it in the admirable example given by the rep-

representative of the Y. M. C. A. school this afternoon. A man can see that a school of that type has no objective in common with the institution maintaining a full-time school of university standards. Now, then, is it the thing we want to do to convert the objectives of that Association, in order to reform some night schools through membership in the Association? It doesn't seem to me that we ought to do that, or, if we ought to do it, then it seems to me a very natural consequence will be that schools who are devoted to that idea of education will wish to form some sort of an Association whereby they can promote that particular ideal.

Now in having that objective, I am not denying the usefulness or the worthiness of the night school, provided it attempts to conform to the standards which are outlined by the American Bar Association. I simply say I am interested in that type of legal education, that is to say, the university type of legal education, on a full-time basis. I recognize there are a great many other schools that are interested in the same type of education. I want an opportunity to meet them in some kind of an organization to discuss our common problems, and not have too much time taken up, as I think we have at least in the meetings of this Association, in discussing proposals to lower standards and to adopt methods or engage in enterprises which are inconsistent with that type of education.

Now, I shall be very glad to join in a movement for a general law school association, embracing all law schools conforming to American Bar Association standards; but I very much hope that this Association may continue along the lines on which it has heretofore proceeded, namely, the promotion of a certain type of education which we think, other things being equal, is the best type, and which is the type that provides for a greater number of students seeking legal education and admission to the American bar.

Mr. Isaacs: This question has been up before. In 1916 I think it was discussed, and again in 1917, and at that time the sentiment seemed very strongly opposed to night schools. I am rather surprised to-day to see how much of the sentiment has veered in their favor. I am wondering what is the explanation of that change in attitude.

There is only one explanation I can think of, and that is the attitude of the American Bar Association. I realize the importance of working very closely with the American Bar Association, but I wonder whether we cannot set a higher standard than they have set as a minimum, and still work with them very closely. Does unanimity, or working with them, involve the acceptance of their minimum as our standard for admission to the Association?

I believe that there is another question that hasn't been touched on in the discussion to-day, excepting in the remarks of the

last speaker, incidentally, the question of scholarship in the law schools. We are an Association, as I understand our purpose, that aims, not primarily at raising the entrance requirements to the bar, for admission to the bar, but an Association for the improvement of scholarship within the schools. Now, those are two distinct purposes. They are related. But isn't there a danger that, in our effort to help along the Bar Association, we will lose sight of the purpose for which this Association has been working, and one which the Bar Association as such cannot be as deeply interested in as we are? I wonder whether we cannot do something else in the way of passing a resolution holding out some hope or promise or recommendation or something of the sort with reference to the treatment of night law schools, without actually taking them into membership at this time, and thereby throwing down that one element in our standards that helped, in an indirect way, perhaps, to maintain the scholarship of our schools that are members of the Association.

Mr. Te Poel: The university with which I happen to be associated has had a night school for approximately fourteen years, run entirely separately and independently of our day school. I happen, through observation, to know a little about some of the things that have been inquired of here this afternoon in regard to the night school work.

The night school at this university is run as a four year course, ten hours a week, but grants no degree whatever for the work. But I would say this. I was forcibly impressed by the remarks made by one of the gentlemen a while ago, that while there are students who earn part of their way in the day schools, in our day school, as in all others, that the time which they devote to outside work is their side line, their day school work is their chief enterprise, or their vocation. The night school which I am most familiar with, a school in which their outside work is their vocation, and their study of law in that night school is their avocation. I don't believe in laying down a rule that you can make a night school the equal of a day school. I know this to be a fact, notwithstanding the four year course, the standards of scholarship in that night school are infinitely lower than the standards of scholarship in the day law school run by the same university.

Another important fact is this: I doubt if a night law school would find it possible to run and meet the requirements of this Association, limited to ten per cent. of special students. I believe you will find, if you examine it, the night law schools generally, that a very large percentage of the students in those night law schools don't have the preliminary educational training that the students in the day law school have. I know it is true of the night law school that our

university runs. They are very largely men that have had some preliminary education, but considerably less than two years college work. They substitute in lieu of the additional, to their own satisfaction, and to the satisfaction of the state bar commission, their experience in business. But I don't believe we as an Association would regard that as the equivalent of it. As so aptly expressed by Dean Stone, I don't believe that we are in favor of lowering our standards, and I would rather see those schools taken care of in some other way. I doubt if we would have any considerable number that would heed the requirements, and I doubt very much if the night school of our university would find it practicable or feasible to continue at all if it had to meet the two years preliminary education, as our day school does, and were limited to ten per cent. of special students.

President Hall: The vote will be taken by schools. The Secretary will call the roll.

Mr. Patterson: The first paragraph here I think will meet with general approval. The second paragraph is the one that is in doubt. I move we separate the two paragraphs, and vote on the first paragraph and then upon the second paragraph.

Motion duly seconded and carried.

Secretary Jones then called the roll of schools on the first paragraph, defining a full-time school as amended. The vote stood, "Yes," 37; "No," 1. McGill University, Faculty of Law, cast the negative vote. The paragraph was declared duly adopted.

President Hall: The question is now on the second paragraph.

Mr. Hudson: Would you please announce again the parliamentary situation.

President Hall: We are at the present moment voting on the second paragraph, in italics, subdivision 3 defining the part-time school. It is the second paragraph of subdivision 3 starting, "A part-time school shall require for the first degree in law," etc. It defines a part-time school, and, in connection with other parts, and article 6, if carried, will admit them to membership, if they otherwise comply with the Articles of the Association.

The roll of schools was called, the vote being as follows: "Yes," 29; "No," 13.

President Hall: The required two-thirds have voted "Aye." The amendment is declared adopted.

Mr. Patterson: The Secretary announced 44 schools were represented here. Two-thirds of 44 is a fraction over 29. I therefore make it a point of order that the resolution is lost. The Constitution requires that two-thirds of the schools represented must vote for adoption to pass an amendment of this kind.

President Hall: There were 42 schools voted upon it. I think the custom heretofore has been to count "as represented" those represented in the voting. I have never known before of a census being taken of the

number of schools actually present, if they didn't vote.

Mr. Patterson: It seems to me the word "represented" means, according to the announcement of the Secretary, that 44 are represented at this meeting. Some of them have declined to vote. The purpose of the provisions to the amendment is to require an affirmative vote of all those present at the session.

President Hall: Does two-thirds of the schools represented mean at any time during the meeting, or at the session in question? I think there is certainly an ambiguity in it, and it is perfectly open to you to appeal from the decision of the chair on that, and take a vote.

Mr. Vold: Is it too late for schools that didn't vote before to vote now?

Moved to reconsider the vote. Seconded. On the decision the chair declares himself in doubt.

Mr. Hudson: May you have the call for vote by schools on the question of procedure?

President Hall: The Constitution provides for a vote by schools, upon the request of any member. I am sorry it is so, because it takes a lot of time. The chair will rule that the amendment has been adopted. I suggest that, if you wish to have this discussed in parliamentary fashion, the thing to do is to appeal from the decision of the chair, and take a vote on that.

Motion to reconsider withdrawn, with the consent of the second.

There is no motion now before the house, unless some one chooses to appeal from the decision of the chair in ruling that the amendment has been adopted, or unless some one wishes to make a new motion.

Mr. Campbell appealed from the decision of the chair, his appeal being seconded.

President Hall: I suppose you wish the vote to be by schools, it being an important matter. The Secretary will call the roll on the appeal from the decision of the chair.

Mr. Hudson: Will you state the issue.

President Hall: The chair has ruled that the amendment has been adopted, because it was voted for by more than two-thirds of the schools present and voting. The appeal from the decision of the chair is taken upon the ground that the Articles, properly interpreted, means two-thirds of the schools represented during the meeting. Those voting "Aye" will vote in favor of the appeal. Those voting "No" will vote in favor of sustaining the decision of the chair.

Mr. Cook: I would like to make a suggestion. If you vote to reverse the decision of the chair, you reverse the unbroken practice of the Association since I have known anything about it. It has always been interpreted to mean two-thirds of those voting at that session. Of course the language is ambiguous, but on voting on questions like this in the past we have always counted two-thirds of

those present and voting upon each question.

Mr. Stone: May I ask Mr. Cook whether there ever has been a ruling to that effect, in his recollection.

Mr. Cook: No; not that I know of. It has never been discussed.

President Hall: I just want to correct the statement I made. The proper way to put the question is, Shall the chair be sustained? Those in favor of sustaining the chair vote "Aye." Those opposed to sustaining the chair vote "No."

President Hall: The appeal from the decision of the chair is lost.

Below is given the discussion of Judge Pound's address on "The Law School Curriculum as Seen by the Bench and Bar" (page 66), at the third general session, on the afternoon of December 29, 1922.

President Hall: Another absentee guest of the Association, Hon. Charles M. Hough, of the United States Circuit Court of Appeals, of New York City, will now discuss Judge Pound's paper, speaking with the voice of Mr. A. L. Corbin.

Mr. Corbin: The essay submitted asserts in conclusion that the law schools "do not achieve a full measure of success when they assume wholly to fit men for the practice of the profession of law."

Yet it is also finally asserted that the "purely academic law school falls short, when it sacrifices everything to intensive training in selective courses in substantive law and refuses even to attempt to narrow the gap between the law school and the law office."

I may state my conclusions at the beginning, by asserting that no person, association, or school can by any curriculum wholly fit men of even fair intelligence for the practice of the profession of law. It follows that Judge Pound seems to me to be criticizing our law schools for not attempting an impossibility.

Let me point out the conditions which alike confront the student, the teacher, the practitioner, and the judge. The old-fashioned method of being apprenticed to some member of the bar and reading law in his office is moribund, if not dead, in all those regions which most attract ambitious and successful lawyers. The reasons for its passage are many, but probably the most potent is the student's view that he is more likely to get by his examination if he goes to a law school. Perhaps the reason next in importance is that the overwhelming majority of managers of successful law offices to-day are themselves law school products; wherefore the aspirant for a chance believes that, the first question he will have to answer is, "What school do you come from?"

Thus the youthful view of that bread and butter minimum of professional fitness to which Judge Pound adverts is that a law school must provide it.

Another and widely different condition confronting us is this: All lawyers of mature age who pay any thoughtful attention to the output of judicial and quasi judicial opinions in this country feel, if they do not often say, that the center of intellectual legal authority in this country has shifted—within about the last generation. It is to the teachers of law who criticize and co-ordinate the better judicial output of all the reports, ancient and modern, that we now look for guidance on doubtful points. The thoughtful judge may be obliged to follow the recent ill-considered judgment of his own superior court, but he can and does call attention, while following it, to the views of legal writers on the subject. Thus the authority of any given decision is undermined, and I believe that in my lifetime I have seen (for example) Wigmore and Williston become more widely influential on their chosen topics than any one court can possibly be. Therefore the mature friends of youth advise the lads who ask them to go to a law school.

Judge Pound mentions but does not elaborate the dismaying fact that barely one-third of this year's aspirants to the New York bar could show a college degree. There is no magic in any degree, but it is a safe generalization that the overwhelming majority of those who had no degree had never even attempted training in close thinking, and concise and forcible expression of what they thought. They are in the main the products of the intellectual free lunch system now prevailing in non-technical American high schools.

I heartily agree with Judge Pound's dictum that no subject treated in any legal curriculum is elementary. Whether one attempts substantive law or practice he encounters a very nice adjustment of conflicting interests, and one which by looking at matters in gross often offends in detail, and especially offends the easy sympathies of youth. I know of no legal subject which does not require a trained mind for its accurate and reasonably quick appreciation.

Thus in my judgment the law schools are confronted with the oftentimes insuperable difficulty of not teaching—so to speak—completely over the heads of their would-be learners.

Doubtless this untrained majority of would-be law students would find the atmosphere of the law office far more congenial to them than that of the law school. With everything that Judge Pound says about these two places of study I heartily agree. But even if the fledgling law student could go, or nowadays wanted to go, into a law office, it is a bad thing for him, because he would at once take to the business side of the office,

magnify its importance, and think that he was becoming a lawyer by becoming a fair practitioner.

Thus I come to the inquiry whether it is possible for the law school, with the material offered, to give as a law course both the practical and the academic sides of the law. I think it impossible. There is not time, and, moreover, the only way to learn practice is to practice, and practice varies not only by states, but by localities in states.

The theory of practice can be taught, the reason for pleadings, the nature of judgments, the distinction between mesne and final process, are helps enabling the thoughtful lawyer to see the forest in spite of the trees, and so perceive how often and markedly procedural law has modified if it has not created substantive law.

Further, again, it is bad for the non-studious youthful person to have the practical side of the law magnified. He thinks the practical side is the profitable side; he will magnify it far too much without help, and what he needs is to have burnt into him as much substantive law as can be compressed into a few years. A man who is fairly grounded in substantive law and reasonably instructed in the history of the law may easily learn in the first year of his office experience all the practice that he needs for the rest of his life, if he substantively amounts to anything. For these reasons I think it is the duty of the law schools to spend all the meagre time at their command in impressing on material not very well prepared (on the average) all that it can be compelled to take of the origin, development, and tendencies of substantive law.

The apt scholar will acquire his practice later and easier. The clever lad, who inclines to the business side of the law, will in time be thankful for the learning thrust upon him in his salad days, and the mere dullard will be benefited by being thrown out of the legal ship.

In my opinion the law schools have in my time very sensibly raised the standard of legal education. I think it is their duty to continue the good work by concentrating on the academic side of our labors; the practical part will come soon enough, and be better done, by managing clerks and trial judges than by professors.

President Hall: The discussion of this subject will be further continued by Mr. James P. McBaine, of the University of Missouri Law School, *in propria persona*.

Mr. McBaine: I am sure I voice the sentiment of all law teachers in saying that we very much appreciate the interesting and helpful paper by Judge Pound that has just been read.

We indeed heartily welcome the views, favorable or otherwise, of members of the judicial branch of the legal profession on law school questions of first importance, such as

the question discussed by Judge Pound, viz the curriculum.

The legal profession in America, by virtue of the nature of the work performed, may be said to be divided into several distinct groups: The practicing bar; the judiciary; and the law teachers. These groups have much in common. They are engaged in work of the same nature, though in each branch the application of the material with which they are working is different.

The modern law teacher, who gives his time exclusively, or almost exclusively, to the work of the law school, keeps in contact with the judiciary by reading the reports of the opinions of the courts. For the most part these are opinions of appellate courts. It would seem, then, that his opportunity for keeping in touch with the appellate courts is better than his opportunity for keeping in touch with trial courts. However, inasmuch as most of the opinions of the appellate court are reviews of some feature of the work done in a trial court, we are also able to keep in touch with the operation and the problems of the trial courts. The law teachers who are using the case method are therefore constantly dealing with the work of the trial and appellate courts.

Our contacts with the practicing bar are perhaps not so direct. For the most part our contacts with the bar are gotten from the opinions of the courts. What the practicing bar does is reflected in most respects in the court opinions.

The law teacher, too, makes a written record of much of his work, by writing articles for law magazines, law treatises, and compiling casebooks. The judge and the practicing lawyer know of the work of the law teacher from these written records. The work of the law teacher is also brought to the attention of the bench and bar by our speaking witnesses, the young lawyers. Our separate fields, then, are closely related, and our contacts sufficient to keep each group informed of the efforts and results of the other groups; and sufficiently related to make the suggestions and criticisms of one group valuable to the other groups.

We of the law teaching profession feel that our work is second to none of the other groups in its importance to our common profession and to society as a whole. The work of no branch of the legal profession is of more importance than that of the branch intrusted with the professional training of the men and women that constitute the profession. The professional life of the lawyer is of short duration so that his preparation and training while in school are of especial significance.

Therefore, it seems, that it is of the greatest importance that legal education should be of great concern to the practicing lawyer and the judge; and, also that we the teaching members of the profession, should fre-

quently have their views as to our work. We need their interest and their help.

At this time the profession generally is of the opinion, as Judge Pound points out, that it is impracticable to train young lawyers in the law offices of those in active practice. The time has long since past when the capable lawyer has time to guide the student in his office in systematic study of law. This statement need not be elaborated. The recommendation of the American Bar Association that the minimum of education required of one seeking admission to the bar should be two years of college training in liberal arts and science and three years of professional study in a full-time law school, shows, I take it, that the prevailing view of the bar of this country is that the young lawyer must now be prepared in a law school.

Judge Pound, in his paper, very properly approaches the subject from two angles. He discusses (a) the kind of training the law student should receive, and (b) the subjects of the law that should be taught in the law school. As to the nature of the training the law student should receive I find myself in accord with his view as expressed in this statement in his paper:

"The proper purpose of law school training is not only to impart knowledge, but also to develop in the student a disciplined and active mind. If it fails, in either task, it leaves its work incomplete."

This is the kind of training that law schools represented in this Association are now striving to give their students, viz. intensive training as to the fundamental principles of the law. We try to teach our students methods of sound legal reasoning, the manner in which the courts reason in formulating rules and in applying them to the facts at hand. Our methods of teaching should no doubt be those that teach the student to think clearly, and deeply, as to complicated, and often new controversies, so as finally to be competent to advise people what to do, and what not to do, and to represent them in the courts, and before other bodies established to regulate and control man's business activities. The client doesn't come to the lawyer's office with his problem so analyzed that all the lawyer has to do is to repeat from memory, or read, a rule of law from some text book or decision. His task is not that easy. The lawyer must first find out the facts—the things that have occurred, or that the client desires to happen—always bearing in mind that he is looking for those facts primarily as they have, or have not, some legal significance. The man whose mind is stored only with rules of law which he has memorized is of very little value to his fellow man who seeks advice as to his rights or duties, or, who wants to know the legal consequences of acts that he is interested in doing. Said Mr. Justice Holmes: "We must think things, not words,

or at least we must constantly translate our words into the facts for which they stand, if we are to keep to the real and true."

And again he says: "A generalization is empty so far as it is general. Its value depends on the number of particulars which it calls up to the speaker and the hearer. Hence the futility of arguments on economic questions by any one whose mind is not stored with economic facts." It seems to me he might also have added: "Hence, also, the futility of legal advice; of representation in court, by one whose mind is not stored with facts of legal significance." The valuable lawyer is not a walking or sitting law book, but a man of broad learning in the great principles of the law he deals with, who has judgment and capacity for seeing the significant facts, who is capable of weighing them, and determining their importance according to the best thought of the day and generation. The lawyer, I say, is a thinker who must "Think things not words." I find myself, then, in accord with Judge Pound's view, as I understand it, that we should put the emphasis upon training the young man to reason soundly as to legal matters, and this can be done best by directing the major part of the three years of student life to an intensive study of those subjects where we find applied those fundamental principles upon which our law is based.

We should, I understand him to say, sacrifice the acquisition of information for intensive study of the most important principles, if we have not time while in law school to cover all the law. And that we have not the time within the three years usually devoted to law study Judge Pound points out, and with him every one agrees who has given thought to this subject.

So, then, as to this I should like to say that I fully agree with Judge Pound when he says: "The law school should primarily aim to be an efficient agency for imparting legal principles to be used in the practice of law."

Summing up prevalent theories of law teaching, Judge Pound says:

"The theories of law teaching adopted by the schools may be grouped under three heads: "First, the theory that law teaching should have no avowed object except the development and discipline of the mind of the student. Under this theory information is incidental. Secondly, that its object is primarily to instill information, and that mental discipline is a by-product. Thirdly, that while mental development and the legal attitude must be of primary consequence in teaching fundamentals, the less important courses may well be taught by methods candidly instructive rather than disciplinary. The first may be called the Harvard method; the second the hasty method. The third has been conspicuously the Cornell method."

Perhaps a difference between law schools, for instance, that are members of this Asso-

ciation lies in this: Some law schools act upon the theory that all courses—fundamental and not fundamental—can be given best by the intensive case method of instruction. Other schools act upon the theory that the case method is essential for the more important subjects but that subjects of secondary importance may be treated best by calling in experts from the bench, or bar, who will give a short series of lectures.

Perhaps Judge Pound would agree with this statement and does not mean to be understood literally when he says the theory is acted upon in some schools "that law teaching should have no avowed object, except the development and discipline of the mind of the student. Under this theory information is incidental."

I doubt if instruction as actually carried on by the majority of the members of the faculty in any American law school has no "avowed object except the development and discipline of the mind of the student," and that "information is incidental."

My knowledge of the courses given in the Harvard Law School (I am not a graduate of that school) leads me to think that the teaching practice of that school is to train thoroughly the student in fundamental legal principles and legal reasoning.

The method there employed is, I understand study by the students of selected court cases, which involve the application of a general or fundamental rule of law; cases which bring out the history of the rule and the reasons why the rule was so made, followed by classroom discussion on the part of the teacher and the students, together with an expression of opinion on the part of the teacher as to the soundness of the rule and in many instances where there exists a division of authority, a statement as to which is the prevailing view.

The catalogue of the Harvard Law School for 1922-3 contains this statement as to their instruction: "The design of this school is to afford such a training in the fundamental principles of English and American Law as will constitute the best preparation for the practice of the profession in any place where that system of law prevails. With this in view, the programme of study, which is designed to occupy the student three full years, will comprise the following subjects."

I think all of us will agree that there are certain subjects that are less difficult to master and sometimes of less practical importance, than others. One finds more basic principles in cases on Contracts, Torts, and Property, I am inclined to say, than in Patents, Bankruptcy, and Admiralty. The emphasis is and should be put upon the basic subjects. As to the best method of teaching the subjects of secondary importance there is, no doubt, some difference of opinion.

I presume some law schools are of the opinion that the case method is a better

method even in those subjects than the lecture method. I fully agree with Judge Pound, however, that the law student would get much from listening to lectures by great lawyers or judges. Many law schools of the country have experienced great difficulty in obtaining the services of these men for a sufficient number of lectures to cover the subject adequately. I am firmly of the opinion that our law students are missing something of great value, and inspiration, by not having a personal contact with great leaders of the bar and learned members of the bench.

I fully agree also that both students and faculty would benefit materially by having in their midst, as lecturers, learned judges, or learned practicing lawyers, for a substantial amount of time; a sufficient amount of time, I mean, fairly to cover a course. Perhaps, too, in some subjects the learned judge or lawyer might merely lecture, but if the time of the student permits of preparation before coming to the lecture, I am inclined to think the lecture might well be preceded by the study of cases under the direction of a resident member of the faculty.

I presume, for instance, if the student has only, say, 6 classroom hours, and no more, to give to Patent Law, the most effective thing that he can do is listen to a great expert lecture on the subject. I wonder, however, if the student wants training to equip him to practice that branch of the law, whether he would not come out with better preparation if well-settled cases were put into his hand by the law teacher for study, and say 34 classroom hours were employed for the discussion by the law teacher and students than by listening to a half dozen lectures by a practicing expert.

With Judge Pound's observation that no law school can turn out men fully equipped to practice law, or to sit on the bench, he might also have said, I fully agree. I am sure that law teachers in member schools of this Association are almost unanimously, if not unanimously, of this opinion. There are many, many practical matters to be learned that the law school cannot teach and does not attempt to teach.

I also fully agree with him in his observation that not all persons who successfully meet the test the law schools can require will certainly become useful lawyers. Natural aptitude for the profession is no doubt a big factor in the success of every man who makes law his life work.

The Subjects That Should be Included in the Curriculum.—As I understand Judge Pound's paper on this question, I think I need say but few words. He enumerates certain subjects that are of first importance and others of secondary importance. Those he regards of first importance, I think, are so regarded in most high standard law schools.

No doubt there is not full agreement among the law schools as to the subjects of second-

dary importance. Nearly all law students remain only three years in law school; hence the number of subjects, outside of those now regarded of primary importance, is not very great. It seems to me that certain subjects of secondary importance may well be omitted from the curriculum of most law schools, as, for example, Admiralty and Mining Law. In only a few schools should these subjects be taught the future members of the bar.

Judge Pound makes this statement as to a course in Elementary Law: "A preliminary course in elementary law would enable a student at the beginning to obtain a mastery of first principles, as recognized and applied by the state in the administration of justice which he might otherwise fail to acquire."

I presume he does not advocate giving a course to beginning students that is made up of easy problems, treated superficially, in Contracts, Torts, Property, Persons, etc., sometimes called Elementary Law. A course of this nature at one time was thought to be of value for first year men. It is now very generally agreed that such a course has no place in a modern curriculum. Nor does he mean, I take it, that we should give to first year students a comprehensive course in jurisprudence, for he classified such a course as a graduate course.

He is of the opinion, I understand, that perhaps our present requirements of our first year classes are somewhat too strict. As to this, he says: "My first thought is that it [the law school] sometimes expects too much from the average beginner who is introduced at once to courses of study in various branches of the law in each of which a specialist concentrates his energies in imparting knowledge."

Many law teachers have felt for some time that probably our first year law student might well be given a course in the nature of law that would be of great assistance to him in mastering his first year subjects and would furnish him at that early period in his career something of a philosophy of law. We now attempt to accomplish this object by our method of handling our first subjects of Property, Contracts, Torts, Criminal Law, and Common Law Pleading. The latter subject is retained in many schools for the purpose—not of teaching in detail that system of pleading—but for the purpose of enabling the beginning student to better understand the history of many of the fundamentals of our present substantive law.

One school (Columbia) at one time gave a course in Constitutional Law to first year students for the purpose of giving to them a general point of view as to law. That school now gives to first year students a course in Common-Law Actions.

Another (Yale) gives an introductory course which is described as follows: "(a) Legal analysis and terminology, legal bibliography and use of library, the common-law

forms of actions. (b) Required auxiliary reading and selected cases. (c) Briefing and arguing cases: Each student will be required to brief and argue three cases. Briefs must be submitted in triplicate and should be type-written."

Another (Stanford) gives an introductory course of lectures which it describes as follows: "Lectures on the function and nature of law; observation of the processes of the preparation and trial of an action at law; analysis of series of selected cases." This course seems not to be a required course.

Another (Minnesota) gives a course entitled "Common-Law Actions and Equity," which is described as follows: "The several forms of action at common law. Relation of forms of action to substantive law. Introduction to equity."

Another (Northwestern) a course described "General Survey of the Law," described as follows: "An elementary survey of the fundamental terms and principles in the general body of the law."

Another (Chicago) gives two courses to first year men which, I presume, have in part, at least, for their object instruction in the nature of law. "Equity I." This course is described as follows: "Nature of equity jurisdiction; relation of common law and equity. Specific reparation and prevention of torts; waste; trespass; disturbance of easements; nuisance; interference with business, social, and political relations; defamation; injuries to personality." Also a course entitled "Remedies," which is described as follows: "General theory of actions as remedies: recovery of damages for breach of obligation; recovery of debt; recovery of chattels; recovery of land. Steps in actions; functions of judge and jury; scope of covenant, debt, detinue, account, trespass, trover, replevin, ejectment, trespass on the case (tort and contract)."

Harvard gives to first year students a course in "Civil Procedure at Common Law," a course dealing with the nature of the common-law actions, pleading at common law and under modern code, trial practice, etc.

Another (Cornell) gives a course entitled "Problems," which is described as follows: "This course is designed to afford training in analysis of legal problems and constructive thinking in determining the relationship between law and facts. Attention will be given to the use of law books, the making of briefs, and to oral presentation in controversy."

In our school (Missouri) we give a course in the Common-Law Actions primarily for the purpose of helping the student to understand the development of the substantive law.

From these few instances it is apparent that there is not general agreement among law schools as to a course for the beginner that will give him some idea of what law is, and something of the history of the English Common Law.

No doubt there exists an opportunity at this time to organize a first year course that would be highly beneficial to the beginning student, and that would enable him to better understand his other first year subjects, and, also would give him a positive idea of what is law. I predict that the future will bring forth a suitable course for first year students that we may properly call an elementary course in the nature of law.

What may the law school accomplish in teaching Procedure, including Evidence, Pleading, and Practice?

I found Judge Pound's views on this subject of very great interest. He no doubt has touched upon a topic upon which there is not unanimity of opinion. How to teach courses in procedure is a perplexing problem, as all law teachers know. Judge Pound evidently is of the opinion that the law school cannot graduate finished and accomplished trial lawyers, and, as I have said, law school teachers generally agree with that point of view. He says, however, that the "average judge or lawyer condemns the law school for failure to teach procedure or where the attempt is made, to teach it effectively." I take it, he is of the opinion that procedure should be taught in the law school, that though there is much of value in the present procedural courses, that much more of value might be put into those courses. He says the attempt that is often made resembles "an attempt to teach auction bridge without cards, card tables, players, or stakes." He then says, as I understand him, that Evidence and Pleading may be taught best dogmatically, and Practice, if at all, can be taught best by "the study of printed records of cases on appeal."

I cannot fully agree with Judge Pound's views, as I understand them, on these questions. I am inclined to think that his comparison of teaching procedure with teaching auction bridge can just as well be made with teaching any so-called substantive law subject. He says: "The whole subject of Practice deals with law in action and law school instruction is relatively static and thus an artificial thing." In the law school, as he says, we cannot have real cases to conduct in a real court. Nor can we have real clients with whom to confront our students, a real contract to put in writing, a real deed to draft, or to examine, a real will to write, a real trust to create, a real personal injury suit to prosecute or defend, or a real criminal prosecution to institute or defend, etc. All our study of law is not, and cannot be, in the very nature of things, in direct contact with life. We cannot, as a process of study, have our law students actually deal with the facts of life while they are happening, or directly, after they have happened. All we can do is to study how they have been dealt with by our constituted agencies for law enforcement.

For example, we study contracts by reading about and discussing many, many sets of

facts, and decisions thereon, which relate to alleged contractual relationships. By this we think that we can master the fundamental principles of the subject. The man just graduated from a modern law school with a sound knowledge of the fundamentals of contracts, and a knowledge of the English language, natural aptitude for dealing with men, as an adviser of men, will be able actually to draft a contract that will express the understanding of the parties and will be legal, and also will be able to advise a client as to his rights and duties under a contract already made. I agree, however, that the law student, fresh from the law school where a thorough course in Contracts is given, will probably not, at once, stand as an accomplished expert in Contracts; but I believe the law school has given him the training and knowledge that will enable him, by practice, to become an expert in that branch of the law.

I see no argument for dogmatic teaching of Pleading and Evidence that cannot be made for dogmatic teaching of substantive law subjects. The rules of pleading and of evidence are just as real as the rules of torts or contracts. In Torts and Contracts we are dealing with rules. Defining law, Professor Gray, in his book, "The Nature and Sources of Law," says: "The law of the state, or of any organized body of men, is composed of the rules which the courts—that is, the judicial organs of that body—lay down for the determination of legal rights and duties."

All law is intangible. It is nothing more than a body of rules. We set up courts to apply and enforce these rules that fix rights and duties. In English law we have rules—necessarily, it seems to me—as to how one may invoke the power of the courts, how he may show the court (or the court and a jury) what has happened, and how the court (or the court and a jury) shall conduct its work in the application of the rules of rights and duties. The rules I have just described constitute the law of Pleading, Evidence, and Practice. These rules are man-made, to bring about an accurate decision of controversies, a correct application of the substantive law. The history of the rule and the history of the institution that made the rule are often of the utmost importance in understanding the rule. Court decisions are full of instances where the rules of procedure have been carefully considered and applied. It is best to build up in the students' minds the rules of Contracts by court decisions and classroom discussion thereof. I see no reason why it is not best also to build up the law of Procedure in the same way, viz. by intensive study of cases where questions of procedure have been considered and decided, followed by a full and free classroom discussion of those rules and their various applications. The courses in procedure, in my opinion, can best be taught by the case method of instruction.

We can best understand a rule—not by hearing it dogmatically stated—but by studying it in its application to the facts. Perhaps Judge Pound would not teach Practice by the case method, because he feels that there is no general or fundamental law of practice. As to Practice, he says: "The rules of Practice in their essentials are more-over local and not general, technical and not reasonable. To teach 'broad principles' of practice seems a wasteful expenditure of time, if the end is to qualify the student for the practice of the law."

I think it may be demonstrated that there is a general law of practice in America; that there are certain rules that are basic and are to be found to control or affect the practice in all the states of the United States. For example, the law of trial practice in civil cases has a body of rules to be found in practically all the states. These rules, too, are of great importance.

For example, the subject of process is highly important and is based upon the same idea everywhere in this country. The summons is a general conception, and the law as to its requisites, as to substance and form, is not purely local. The summons is the basis of jurisdiction over the person, and there exists a body of law as to personal service that is general. The law of the officer's return of the summons, privilege, and exemption from service, will be found to be of general application.

Due to the provisions of our federal Constitution there is a general body of law, particularly, as to constructive service of process. There is no more important or interesting body of law than that relating to jurisdiction in rem and notices by publication. *Pennoyer v. Neff* should be understood by every law student, no matter where he intends to practice law.

Though there are various statutory modifications there are certain underlying principles as to the power of the court, when a defendant has been served with process and fails to appear and plead, or to appear after pleading.

In the selection of the jury there is much in common in every state in the Union. Challenges to the poll, for cause, and peremptory challenges can be reduced to certain general rules.

The demurrer to the evidence, the directed verdict, the nonsuit and motion for a new trial, as developed by English common law, if mastered, will be of great use to the trial lawyer, no matter what his local practice act may be.

The province of the court and the jury may be studied in the practice course, where the case method is employed, with great benefit. This can be done best by a careful study of cases where a question has arisen in connection with instructions to the jury that have been given or refused.

The manner in which the substantive law is applied is of the utmost importance. In the field of Contracts, oral and written, it is of the utmost importance to understand fully what questions are for the court and what for the jury. In the field of torts, liability for negligence, deceit, false arrest, malicious prosecution, libel and slander, there exist many interesting questions of the province of the court and jury. As has been pointed out by Mr. Justice Holmes. "From saying that we will leave a question to the jury to saying that it is a question of fact is but a step, and the result is that at this day it has come to be a widespread doctrine that negligence not only is a question for the jury but is a question of fact * * * I venture to think, on the other hand, now, as I thought twenty years ago, before I went on the bench, that every time that a judge declines to rule whether certain conduct is negligent or not he avows his inability to state the law, and that the meaning of leaving nice questions to the jury is, that while if a question of law is pretty clear we can decide it, as it is our duty to do, if it is difficult it can be declared better by twelve men at random from the street."

Surely questions of this sort can be studied in as definite a way as questions of substantive law. They can be understood best, it seems to me, not by listening to dogmatic statements, but by studying many cases where the problem confronted the bar and the court and a rule was made and applied. I submit that these questions are not purely theoretical and that to teach them, as I have suggested, is not the same sort of thing "as a doctor might do in prescribing for a hypothetical patient on a general statement of supposititious symptoms."

Time prevents giving other examples or attempting to show how Pleading and Evidence may also be taught best by the case method, not by the lecture method, and from attempting to show that rules of Pleading and of Evidence are no more abstractions than the rules as to liability for negligent conduct causing personal injury to another. I took my examples from the field of Practice as this is one of the subjects that law schools have only lately taught by the case method.

Should the Law School teach local or general principles? I fully agree with Judge Pound's statement that "the University law school must have vision to look beyond the vicinage." University law schools do not teach only local law. I do not know that any law school teaches merely local law. I agree, too, with Judge Pound that the law school should state to the intending student whether it gives any attention to the local law, or whether its chief emphasis is upon the local law, or whether it teaches no local law.

I presume that he is of the opinion that it

is unwise to teach only local law, and that to do so is narrowing, and that the local law, perhaps, does not in most cases contain all the needed material for instructional purposes. This is the prevailing theory in the schools represented in this Association.

Finally, I should like again to be understood as saying that we are very grateful to our distinguished and learned guest for his paper. We earnestly desire the advice and help of the bench and bar in this important task of ours. We cannot best succeed without it. His paper contains many points of interest and much good advice.

Below is given the discussion on the morning of December 30, 1922, of the address by William H. Spencer, University of Chicago School of Commerce and Administration, and Albert J. Har- no, University of Illinois College of Law, on "The Correlation of Law and College Subjects." (See pages 85 and 88):

Mr. Throckmorton: It seems to me that every law student ought to have a training in political and social science and that every student in Schools of Business Administration and Commerce ought to have training in law. Now, I am perfectly willing to subscribe to the first thesis, that every student in the Law School ought to have a training in economics and political science. It seems to me, however, that the answer to that is that instead of taking two years in college, he should take three or four years, in which time he would have an abundant opportunity to acquire a learning in social and political science, under the best auspices. And I don't see how he can very well acquire that without taking three or four years in the colleges.

And if we look at it from the standpoint of the other thesis, that the student in the College of Business Administration and Commerce should have training in law, it seems to me the place to give him that is in the School of Business Administration or Commerce, rather than by sending him over to the Law School.

The first speaker has adverted somewhat to the prejudices of the law teachers and of the law students to having students from the academic departments come over and associate with the law students in the classroom. I think he is perfectly correct in his statement that there is such a prejudice, and I don't think it is an ill-founded one. From the standpoint of the teacher in the Law Schools, he doesn't wish to have a body of students coming over from the academic departments who are not homogeneous with the law students. He feels that they are more likely to prove a nuisance in the classroom than a benefit. They are rather in-

clined to ask questions that are out of proportion to their numbers, and questions which don't appeal to either the teacher or the student as being pertinent to the discussion. They not only prove a nuisance to the teacher, but they quickly become unpopular with the regular law students, who are apt to get a rather hostile attitude toward their presence in the classroom. So I should think that no good results could be attained by having the students from the Schools of Commerce or Business Administration come over to the Law School and mingle with the law students in the classroom. It seems to me the proper solution of the problem to which the first paper was principally devoted is to have certain courses in law given in the College of Business Administration and Commerce, so that the students in those courses may there obtain their law, rather than by coming over to the Law School, and thus breaking in as it were, upon the homogeneity of the law study body, and proving more or less of an interference with the regular instruction of the law students.

To sum up, therefore, it seems to me that it would be better to keep the instruction in social and political science and that of law in separate schools, and in that way the purposes of both could be better carried out. If the lawyer wants that, let him get that instruction before he gets into the Law School, but let him when he comes to the Law School be solely under the control of the Law School, and not under divided allegiance to two different departments of the university.

Mr. Hale: I find myself in hearty accord with the thesis of the first paper, and will not reiterate. May I say just a word, growing out of my own experience at the University of Oregon, developing from my experience with the School of Business Administration.

When I first undertook the work out there, I found that commerce students were attempting to get their law by registering in the law courses in which they were interested. I had at once impressed upon me the fact that these men were a detriment to the work that we were attempting to do in the Law School. However, I was completely in sympathy with their desire to secure a knowledge of law, and I suggested to the Dean of the School of Commerce that the Law School would undertake responsibility for developing special courses for the students in the School of Business Administration.

Just a word about the way in which we have undertaken to do that, and the reason for that. The course in Contracts for the commerce students, in the School of Commerce, is given by the teacher who gives the course in Contracts in the Law School. If law work is to be given to commerce students, I believe that it should be of the highest order. Probably it is more difficult in

some respects to give a simplified course, and an abbreviated course, than it is to give the thorough course that we attempt to give in the Law Schools to the law students. The teacher who gives the work in Sales in the School of Law gives instruction in Sales in the School of Commerce. Likewise, in the case of Negotiable Instruments.

Now I have said one purpose was to bring what I conceive to be as thorough instruction to the School of Commerce as could be secured. The other purpose is this. I thoroughly believe that it is of advantage to the law teacher to get as much of the point of view of the business man as he can get, and I conceive it to be his duty in attempting to give instruction to the students of the School of Commerce to attempt, so far as in his power lies, to place himself in the position of the business man whom he is attempting to serve, so that there is a double advantage in this method of handling the work.

We have made one exception to the rule against receiving students in commerce in the School of Law. By special arrangement with those who are interested in developing the public accountant, we have agreed to take into our more thorough and complete commercial courses in the Law School students from that department. That brings us only a limited number, and generally students who are advanced when they come to us, students who are particularly serious minded; those students we have not found to be a detriment. So much for our method of handling the situation. It is as yet an experiment. I am not able to pass final judgment upon its success, but the relations between the School of Commerce and the School of Law have been delightful, and I believe that we are both benefited.

Also growing out of this effort on our part to serve the School of Commerce, we have found that they are particularly willing to attempt to serve us, and so at our request they have developed a special course in Accounting, somewhat more abbreviated than the one they assume to give to their own students, a course, by the way, which I believe every lawyer should have.

They have also assumed to arrange particularly to give to—and when I say to our students, I mean pre-legal students—to give to our pre-legal students a course in Corporation Management and Finance. To that extent we are drawing particularly upon the services of the School of Business Administration.

Mr. Hepburn: The two papers touch upon matters of fundamental importance, and one is tempted to speak on all of them. But I would like to make a special appeal for the first two years of college, the two years of liberal arts. That is not an adequate college course for a lawyer. He ought to have three years, I think we will all agree, but the majority of the schools in this Associa-

tion are not requiring three years, most of us require only two years of a candidate for the LL. B. degree, and we require that only of some 12,000 of the 32,000 students studying law in American Law Schools. Whether two years is long enough or not, it is going to become the standard course for the first degree in law.

I think the resolutions of the American Bar Association and of the State Bar Associations have made it clear that the first degree in a law course, the course leading to the LL. B. degree, has become a five year course, two years of it devoted to liberal arts, three years of full-time work devoted to professional law study.

I would like to make a special appeal to this association for some co-operative work in securing the maximum effect out of these two years of liberal arts. I expect that in most of our universities we find great difficulty in getting our liberal arts faculty to realize that those two years of liberal arts taken by a man who intends to come into the Law School are really the first two years in the LL. B. course. They are looked upon as the first two years in a possible A. B. course, and the studies required are those which are required of the A. B. candidate who is to go on and take a third year and a fourth year in liberal arts, whereas, as a matter of fact, the man who just comes into the university, taking two years of liberal arts, is looking to the law, he is taking liberal arts, but he is an LL. B. candidate.

Now, we cannot hope to get as much out of those two years as we would like, but I believe that we can get a great deal more out of the two years of liberal arts work than is customarily obtained. I think that if the Association itself would appoint a committee to investigate and report on that, we would find that sooner or later the liberal arts faculty would co-operate with us. I find that they are willing to co-operate, but there is no agreement, no very definite agreement, as to what courses should be taken.

I find, also, that as a pedagogical device it is worth while in these first two years to organize pre-law sections in liberal arts. A pre-law section in English composition produces good results. A pre-law section in English Literature produces good results. I am confident that a pre-law section in Latin would get a great deal more out of the students than they now obtain in their college course in Latin. There is, as liberal arts professors so frequently tell us, although many don't admit it, a lack of objective in liberal arts work. The students taking liberal arts will come and say: "It is simply killing time with me." They want to get into the Law School before they have finished their two years.

I believe, and I would like to make that suggestion somewhat earnestly, that it is one of the missions of this Association to lend

aid in getting a maximum result out of the first two years of the five year LL. B. course.

Mr. Arant: If we in this Association require two years of college work, we accept some responsibility for what that work should be. Now the average student, in the absence of some kind of a required course, is permitted to take any subject he feels like taking. He is aided in some places by faculty advisers, college faculty advisers. Some university and college faculty advisers consider themselves in some ways not equipped to advise a pre-legal student, in the advance of law instruction, if he chooses such a course. Now, at the University of Kansas I have been asked to name such courses. I will admit that I have considerable hesitancy in saying what any pre-legal student ought to take.

Last year this Association turned over to the Committee on Curriculum this very question as to whether or not a pre-legal education should be required, whether any set of subjects in that education should be promulgated. That committee has reported. The present committee decided not to undertake a new report on this subject, but to recall the 1909 report to the attention of the Association for discussion, or if deemed advisable, for reference to a committee for fresh consideration.

Now, I don't want to take up any of your time for that discussion, but, if it is in order, I would like to make a motion to refer this question to the Committee on Curriculum, with a request that it make a report on this subject next year.

Seconded.

President Hall: Doesn't this really fall within the scope of the regular Curriculum

Committee? It is moved and seconded that this question be referred to the Curriculum Committee next year, to report a detailed program for two years of college work.

Mr. Arant: I simply meant that a report be brought in on the advisability of this.

President Hall: Might I suggest that perhaps we should have a more stimulating discussion next year if they were asked to suggest some sample programs. It is one thing to say simply, "We think we ought to have such a program." Where we should differ is in the content of that program, and that would really strike fire from the flint.

Member: Couldn't the scope of the resolution be so enlarged as to include all the subjects now covered?

President Hall: Would you be willing to have your motion modified to that extent, that the committee be requested to report upon the general subject in such detail as they think best?

Mr. Arant: Yes.

Mr. Vold: It was my understanding in the first place that there was a committee that reported on that very thing at this meeting.

President Hall: The committee I think republished a report made in 1909, without further comment, and were about to ask whether they should be continued in order to consider modifications of that. As I understand it, this instructs the committee to consider modifications of that and report in such detail as they think best at the next meeting.

Question is called for and motion is carried.

The Curriculum Committee of next year will make that a topic for their report.

Notes and Personals

The Editor of the Review wishes to correct the following errors in the figures for registration in law schools, published in the November, 1922, number of the American Law School Review (Vol. V, No. 1).

Under the heading, "University of Wisconsin Law School," the figures showed 60 special students. Dean Richards calls attention to the fact that only 16 of these 60 students were special students, inasmuch as all of the other students complied with the entrance requirements, which call for two years of preliminary college work.

Under the heading, "Marquette University Law School," the registration of the day and evening classes were transposed. The reg-

istration for the day division should have been 237 and the registration for the evening division 130, instead of vice versa.

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The registration figures last fall for the National Law College, which is the College of Law of the University of Manila, are as follows:

	First Semester.	Second Semester.
First Year	232	218
Second Year	124	103
Third Year	93	78
Fourth Year	76	64

Total 533
*Excludes the 61 special students.

The following members have been added to the faculty of the Law School: Hon. George A. Malcolm, Associate Justice of the Supreme Court, Hon. Luis P. Torres, Undersecretary of Justice and Mr. Mariano Albert, Assistant Fiscal of the City of Manila.



It is interesting to learn that there are to-day six law schools in Manila, with probably 2,500 students, of whom the larger part are government clerks, or young men occupying minor positions with commercial firms, the balance being what is known as professional students; i. e., those who devote their entire time to the study of law, being supported by their parents or otherwise. In these law schools, with one exception, namely, the University of Santo Tomas, the oldest educational institution in the Philippine Islands, the courses of instruction are given from about 5 o'clock in the afternoon until 8 or 9 o'clock in the evening. The teaching staffs are very largely drawn from the legal profession. Only a few professors devote their entire time to instruction in legal subjects. Three of the six schools instruct entirely in English; the other three in Spanish. The course of instruction in all of the law schools is a four-year course, divided into two semesters. The names of the six law schools are as follows: Philippine Law School; College of Law, University of the Philippines; University of Manila; Universidad de Santo Tomas; Escuela de Derecho; Academia de Leyes.



Judge William Thornton Lafferty, Dean and founder of the College of Law of the University of Kentucky, died on November 9, 1922. His death was a great loss, not only to the law school and college, but also to the community in which he lived. The Louisville Courier-Journal published the following brief notice of his life:

"Judge Lafferty, who founded the College of Law in 1907, was a native of Cynthiana, Ky. He acquired his preparatory education in the Cynthiana Academy and the Smith Classical Institute of Cynthiana, attending the Kentucky Agricultural and Mechanical College, now the University of Kentucky. The University, in consideration of his prominence as a lawyer and other distinguished services, conferred upon him the A. M. degree in 1908.

"Judge Lafferty was admitted to the Kentucky bar in 1879. He served as county at-

torney of Harrison county from 1882 to 1886 and was county judge there from 1886 to 1894, practicing as a member of the law firms of Ward & Lafferty and Lafferty & King until 1908.

"In 1908, Judge Lafferty was called by the University of Kentucky Board of Trustees to organize the law department of the University. He was made Dean and co-jointly served as Controller of the University until 1915, when his duties in connection with the law college demanded his entire time. He originated the University of Kentucky courses in court and office practice.

"Judge Lafferty married Miss Maude Ward, of Cynthiana, November 20, 1889.

"He was a prominent Democrat, a member of the Christian Church, a Mason, and a Knight of Pythias. In Masonry, Judge Lafferty gained distinctive honors, serving as master of his lodge, high priest of the chapter, eminent commander of Cynthiana Commandery, No. 16, of the Knights Templar, and also chancellor commander of the Knights of Pythias.

"Judge Lafferty was a member of the Kentucky State Legislature from Harrison county two terms, 1898 to 1902, and served on the Board of Trustees of the University of Kentucky for five years.

"He was a member of the Kentucky State Bar Association, Association of American University Professors, Association of American Law Schools, National Educational Association, and the Kentucky Educational Association."



Yale has established the Cherini prize, to be awarded for the best essay on International Law by a student studying International Law or Conflict of Laws. The fund of \$1,000, establishing the prize, was given by Ambrose Cherini, of California, for many years vice consul for Russia. He was graduated in the Yale Law School in 1902.



A summer school of eleven weeks' duration has been decided upon by the Cornell Law School for the coming summer vacation. The session will be divided into two terms, of five and a half weeks each, the first term to begin on June 25 and to end August 1, and the second term to begin August 2, and last until September 8.

This new policy will increase the number of weeks given over each year to the teaching of law from thirty-two to forty-three weeks.

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The American Law School Review

An Intercollegiate Law Journal

S. E. Turner, Editor

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Cases on Trade Regulation

By HERMAN OLIPHANT

Professor of Law, Columbia University

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THE AMERICAN LAW SCHOOL REVIEW

AN INTERCOLLEGIATE LAW JOURNAL

S. E. TURNER, Editor

Vol. 5

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No. 3

The Teaching of Law at Oxford

By ROBERT L. HENRY, J. D., B. O. L.

*Formerly Dean of the College of Law, University of North Dakota,
Lecturer in Law in Oxford University, 1921-22*

AN American professor of law, if asked what was the most important necessity for a good law school, would unhesitatingly reply good professors. At Oxford, on the other hand, the professors and lecturers, while useful and ornamental, are no necessary part of the system of instruction, and the law work would go on, and go on well, if there were none of them.

Attendance at not a single lecture is required as a prerequisite for taking a law degree. The requirement instead is that residence in Oxford for the prescribed time must be shown by the records of the butler of one of the Colleges to the effect that the candidate has eaten so many meals and slept so many nights in college. The Inns of Court in London have a similar requirement for admission to the bar—the eating of a certain number of dinners a term, for a number of terms.

The professorships and lectureships at Oxford grew up haphazard, each one being separately endowed, at a different time, by a different donor, for such purpose as pleased his fancy. The subjects on which lectures are given have therefore no necessary connection with the list of subjects on which the examinations are held. Fortunately, however,

the terms of the trusts are elastic enough, so that the incumbents of the professorial chairs can give lectures on branches of the law covered by the examinations, if they so desire, and they are more than likely to do so, for the very good and sufficient reason that, if they did not, very few students would take the trouble to go to hear them. As each lecturer has some latitude, there are naturally opportunities for duplication. For example, several of them might decide to lecture on contracts during the same term. There is nothing to prevent, except the desire of each one to have his own lectures well attended, which might not be the case if others lectured on the same subject at the same time. On the other hand, there is nothing to insure that lectures will be given in any one year, or series of years, on all of the topics on which examinations are held.

There is, to be sure, a means of producing some co-ordination. There is a Board of the Faculty of Law, composed of the principal law professors and lecturers, which gets together and agrees upon a list of lectures and on a schedule of hours, for the official announcement. Obviously there must be an accommodation as to hours, so that the lectures may be spread over the week, and in order

that no more than necessary should be given at the same hour. Also the board conferences furnish an opportunity, in case too many should choose the same subject, for some to change their minds, and also for a certain amount of planning to be done in an endeavor to fairly well cover the field.

But there is no one to dictate, except the donors of the endowments, who may have died centuries ago. There is no president of the University, with autocratic authority. There is instead a non-resident Chancellor, whose office is largely honorary, and a Vice Chancellor, elected for two years from among the heads of the twenty colleges, who is then succeeded by another, and who during his incumbency has very little authority—none over the professors and lecturers and the boards of the faculties; and there is no law school dean, or corresponding officer, with authority to prescribe a curriculum, to concern himself with the appointments of new professors and the like. There is no real head to the law faculty at all. The professor holding the oldest established chair, who happens to be the Regius Professor of Civil Law, acts as Chairman of the Board, but with no more authority than any other member of the Board.

When a vacancy occurs in a chair, the board of electors for that particular chair has power to fill it. Each chair has a different board, composed as dictated by the donor's deed. In a number of cases of the law lectureships the incumbent of the office of Lord Chancellor of England, or of Chief Justice, or both, are members *ex officio*, as are also the holders of the other principal law professorships. An advertisement, upon the occurring of a vacancy, is inserted in the University Gazette, announcing that an election is to be made, and setting forth the particulars, the compensation, the subject or field on which the lectures are to be given, and the number of lectures to be given during the year. Candidates then send in their applications, stating their qualifications, and offering such evidence as they can in support thereof. The appointments are in most cases for life, so, when the election is once made, the appointee is forever after master of

himself, subject only to the visitatorial power of the person designated in the trust, to see that the terms of the trust are being carried out.

What considerations govern the selection of professors and lecturers will always lie locked up in the bosoms of the electors. It may be surmised, however, that prominent among them are two: First, the stipends attached to the chairs are very useful to reward deserving "dons," who receive inadequate emoluments from tutoring; second, they serve to free "dons," who have proved their scholarship and ability to write, from the drudgery of overmuch tutoring, and hence give them opportunities for more research and writing. The men chosen, at any rate, are usually the most eminent in their line, and adorn well the chairs which they hold, though they are not necessarily good teachers or good lecturers.

In addition to those which may be called University lectures, there are various courses of lectures given by the tutors of the several colleges. There are twenty colleges, and each of them must provide for the instruction of such of their undergraduates as wish to take law. In addition to providing for the tutoring, each college undertakes to have its "dons" put on lectures on a number of subjects. For some of the colleges law is included. This also affords an opportunity for the college tutors to try themselves out as lecturers. Their success, at least success in catering to the needs of students, may be measured by the number who attend, as attendance is voluntary. There is reciprocity between the colleges, so students of one college may attend lectures given at other colleges. There is issued at the beginning of each term an official lecture list, which may, with the approval of the Board of the Faculty of Law, include any or all of the lectures on law given by the "dons" of the several colleges.

The method of lecturing is precisely what its name indicates; i. e., by formal lectures for the most part. For these the student makes no preparation. There are no assignments; and he takes no part in the class work, very seldom even asks a question. The lecturer nearly always

reads his lecture. He does so, slowly, so that the student may take it down verbatim. If there happens to be a good text-book, not too large nor too small, and quite up to date, on the subject, there is very little justification for such lecturing, as the text-book is likely to have the material in better shape than it will be found taken down in the student's note-book. But commonly all of those requirements for a text-book are not to be found, and the lectures fill the gaps; also they provide a variety in study. It is not good for a student to sit too many hours a day with a text-book before his own fire. It is better, for a change, for him to get out, and he can perhaps learn through his ears more in one hour than he could in an extra hour through his eyes by the fireside. Still that may be questioned, as attention to writing down the lecture may handicap thought. But on the whole the lectures are useful, even to the students, or at least they think so, or they would not attend as frequently as they do. It is very noticeable, however, that at the beginning of each term the attendance is much larger than towards the end.

In addition to the formal lectures there has grown up in recent years some informal instruction which bears some faint resemblance to the case method as used in America. The informality consists primarily of the group of students being small and taking some part in the discussion. The meeting is usually in the lecturer's study. There is no set dictated lecture, and the material discussed is commonly cases. Cases are sometimes assigned to volunteers among the students to report on. Some of the lecturers now make it a practice of supplementing their formal lectures by informal hours for such of their students, always a smaller group, who care for that sort of work; also there are a number of moot court clubs, whose meetings are presided over by the professors and lecturers. One of these clubs, which operates under the auspices of the Vinerian Professor of English Law, has a University character; that is, is open to men from different colleges. The others are each confined to the men of a particular college.

But the backbone of all instruction at Oxford, including law, is the tutorial system. The truth is, law is not taught at Oxford; it is "read." Each man is assigned to a tutor, to whom he goes for an hour once a week. A few years ago only one man went at a time to a tutor, or at most two men, so the tutor's help was thoroughly individual. Each week the student read a paper, and it was criticized by the tutor. Now, on account of a larger number of students, and no more tutors, three or four men must go at a time. Some tutors have between thirty and forty pupils, which is a perversion of the system. For individual instruction the number should not be nearly as great. Also they must coach in all of the law branches. There can be no specialization for a tutor. The tutors are at present much overworked.

In addition to criticizing the weekly essays, the tutor advises the student what books to read. There are no required books, and as the examinations are in no way confined to the material to be found in any particular text-books or casebooks, it is a matter of taste and individual judgment, for tutor and student, what the latter should read. A student of Oxford learns nearly everything he does learn from the reading he does himself, on his own initiative. He is not quizzed on his reading, nor does he have final examinations at frequent intervals, by which he can dispose of one or several subjects at a time. His final examinations cover the whole field of law, and all come at once, in a week, at the end of his three or four years of study. In the meantime the responsibility of preparing rests entirely with himself, with such suggestions as his tutor may give him. The greater part of a student's reading is done alone during his vacations. There are three terms at Oxford, each of eight weeks each, making in the year twenty-four weeks of College, and twenty-eight of vacation. It works out very well, as there are so many distractions in the life of Oxford, that the best work cannot be done during term. During vacations, on the other hand, all is quiet. Most of the men live in the country, where there is nothing else to do but study.

To put the matter fairly, one would have to say, then, that by far the greater part of the teaching of law at Oxford is done by the students themselves. Each man plans and executes his work. He has got himself chiefly to rely on. The next largest part of the teaching is done by the tutors. That leaves the professors and lecturers in third place, and should make it clear that the teaching would go on, regardless of whether there were any lectures or not.

Also the examinations would take place as usual, if there was not a single professor or lecturer, for it is not they who give the examinations. The utterly absurd system which exists in America, of the same men who give the instruction also giving the examinations, does not exist at Oxford. That system necessarily means a standard variable with each instructor as far as the students are concerned, and it does not serve the important function of examining the instructor.

At Oxford, the colleges, by their tutors, give the instruction, and the University, which is primarily an examining body, gives the examinations. That insures a uniform standard for the University, and one by which the work of the tutors of the several colleges can be gauged, as they all coach in the same subjects; i. e., all of the subjects required for the examinations. The board of examiners, usually consisting of three, is chosen from competent scholars, who may be glad to earn the specific remuneration set aside for setting the papers, and the drudgery of reading and judging the answers, though it is not the remuneration only which attracts, for the opportunity to do the service and the honour attached to it counts. Quite frequently, one or two members of the board are men from other Universities. That insures the examination being given on the field, and not on the questions which instructors may have drilled into their pupils, for the examiners know nothing of what books the student may have studied, or what points the tutor may have insisted upon as of importance. An excellent law paper in an American law school examination may mean nothing except the serving back to the pro-

fessor of the points he has emphasized to his class.

The life, in short, of a professor of law at Oxford is not a bad one. Reading his lectures, after they have once been gotten up, is not much effort. And the task of revising them and bringing them up to date is comparatively simple to the work of an American law professor. There are only the cases on the subject of the one jurisdiction, the High Court, to read, while the American professor must read fifty times as many, from the federal and state courts. Four lectures a week, with perhaps an hour or two of informal instruction, is about the average, and that during only twenty-four weeks in a year, and then they are free from the fearful drudgery of examination papers at the end of each term or semester.

But then the law professors and lecturers, as was said in the beginning, are no necessary part of the system. If American professors of law had law tutors and examiners to do nearly all of the work, no doubt their services could also be dispensed with. Perhaps, even under the present American system, the professors are not so essential as they suppose. There was one very good American law school which, on opening its doors, decided that the taking of class attendance was unnecessary. It seemed to work splendidly, except as to one student. All the others were always present. But that particular student, who never came to class, was a scandal to the school, for he succeeded in passing the examinations. The professors quickly began calling the roll, and made the rule that, without class attendance, with a few permitted cuts, the examinations could not be taken, rather than to have it appear that the class work was a futility.

On the other hand, it would seem that that was an unnecessary precaution, for there were other students, who were doing no preparation out of class, who were proving to their own satisfaction that the professors were exceedingly useful. They found that by being good listeners they could get through the examinations. Why should not the matter be left to the taste of the student? Some

can learn better, or at least with less effort, by attending class, while others can do better work alone. The last was demonstrated by one of the listeners above referred to. His record was, as might be expected, indifferent, though he passed in all of his subjects. But it happened that he was given under special circumstances an opportunity to take two of the examinations without having attended a single class hour. He made A+ in both of them, the only high grades on his card.

If the truth were known, it might well be that the way American professors commonly carry their classes along, not because they want to, but because they have to, resulting as it does in the professor doing nearly all the work, and the students for the most part a rather low minimum, is actually resulting in the killing of a large amount of initiative and self-reliance which might otherwise be developed in the students. The Oxford system of instruction makes for a maximum of those qualities.

Schedule of Lectures

Authorized by Boards of Faculties at Oxford University for Hilary Term, 1923

[This schedule of lectures is reprinted from the Oxford University Gazette, in the belief that it will be of interest to teachers of law in the United States.—Editor.]

FACULTY OF LAW

Subject.

Lecturer.

Place.

ROMAN LAW

*The Contracts of "Locatio Conductio" and "Societas."	Regius Professor of Civil Law,	All Souls
The Law of Obligations.....	F. DE ZULUETA, D.C.L.	
	All Souls Reader in Roman Law,	"
	H. F. JOLOWICZ, M.A.	"
The Introductory Constitutions to the Digest and Pomponius' Fragment on the Origin of the Law (D. I. 2. 2) (Informal Instruction).	" " "	"
Digest XVIII. 1. De contrahenda emptione	Sir JOHN MILES, B.C.L., M.A.	Merton

ROMAN-DUTCH LAW.

Law of Things.....	Rhodes Professor of Roman-Dutch Law,	All Souls
	R. W. LEE, D.C.L.	
Informal Instruction.....	" " "	To be arranged

ENGLISH LAW.

Leading Cases in Constitutional Law.....	Vinerian Professor of English Law,	The Schools
	W. S. HOLDSWORTH, D.C.L.	
Constitutional Law (continued).....	All Souls Reader in English Law,	Jesus
	A. E. W. HAZEL, B.C.L., M.A.	
*Criminal Law (continued).....	" " "	All Souls
*Law of Evidence (continued).....	" " "	"
*Informal Instruction (Criminal Law and Law of Evidence).	" " "	"
Real Property (continued).....	G. C. CHESHIRE, B.C.L., M.A.	Exeter
Real Property (continued).....	G. R. Y. RADCLIFFE, M.A.	New College
*Equity (continued).....	H. G. HANBURY, B.A.	Lincoln
The Borderland of Tort and Contract.....	W. T. S. STALLYBRASS, M.A.	Brasenose
Torts (continued).....	R. SEGAR, B.A.	Magdalen
Agricultural Law (concluded).....	E. HILLIARD, B.C.L., M.A.	Balliol

FACULTY OF LAW—Continued

<i>Subject.</i>	<i>Lecturer.</i>	<i>Place.</i>
JURISPRUDENCE.		
Introduction to Modern Jurisprudence, Part II (Theory of Rights).	Corpus Christi Professor of Jurisprudence, Sir P. VINOGRADOFF, M. A., Hon. D.C.L.	The Schools
The Age of Edward III (Seminar).....	" " "	"
Problems of the Theory of Law (Seminar)	" " "	"
Principles of Jurisprudence (Rights, Duties, and Liabilities).	Miss I. WILLIAMS, B.C.L., M.A.	"
The Average Man in English Law (12 Lectures)	O. K. ALLEN, M.A.	University
PRIVATE INTERNATIONAL LAW.		
Private International Law.....	Lecturer in Private International Law, G. C. CHESHIRE, B.C.L., M.A.	Exeter
INDIAN LAW.		
Indian Penal Code (concluded) to be followed by Criminal Procedure Code.	Reader in Indian Law, Sir E. J. TREVELYAN, D.C.L.	Indian Institute
Informal Instruction: Hindu Law } (Fee, £2).....	" " "	To be arranged
Other Instruction }		
PRELIMINARY EXAMINATION.		
Roman Law of Obligations and Succession	Regius Professor of Civil Law, F. DE ZULUETA, D.C.L.	All Souls
Constitutional History (continued).....	Vinerian Professor of English Law, W. S. HOLDSWORTH, D.C.L.	"
French and English Constitutions (continued)	All Souls Reader in English Law, A. E. W. HAZEL, B.C.L., M.A.	"

*Intended specially for B.C.L. Students.

L. R. FARNELL, Vice-Chancellor.

Charles Viner and the Abridgments of English Law

By W. S. HOLDSWORTH

Vinerian Professor of Law, Oxford University

[An inaugural lecture delivered before the University of Oxford at All Souls' College, November 25, 1922. Reprinted from the Mississippi Law Review of February, 1923.]

WHEN my predecessor in this chair gave his inaugural lecture in November, 1910, his position was in one respect enviable as compared with mine. He had no losses to lament. The University had gained a new and a distinguished professor; his predecessor, Dicey, was still with us; and, as his valedictory lecture on Blackstone shows, was with us with all his intellectual powers undimmed. I, on the contrary, address the University after a year which has

seen the loss of three of its most distinguished professors in the Faculty of Law, all of whom in their several ways have contributed largely to the high place which the Oxford Law School holds amongst the law schools, not only of English-speaking peoples, but of the world. Dicey, Erle Richards, and Geldart were all teachers whose loss may rightly be described as irreparable—whose example and achievements have placed upon us, their successors, the dif-

difficult task of maintaining the high standard which they have set. But though the task is difficult, and the responsibility to our successors is heavy, we are, I think, encouraged to face it by the reflection that we are members of a law school with great traditions, and of a profession which, because it has far longer and greater traditions, has always been responsive to such a stimulus as this.

The achievements of Geldart, my immediate predecessor, are well enough known to most of my audience. We knew him as a University statesman, as a master of the classical languages and literature, and as a consummate lawyer. The value of his work on the Hebdomadal Council from 1905 to 1921 will probably be felt by many generations of members of the University, and the women will always owe him a special debt of gratitude for the skill and success with which he advocated their cause. His record as a classical scholar shows that, if he had chosen to make the study of the classics his life work he would have made as great a name in this sphere of learning as he has made in the sphere of law. With his abilities as a lawyer, all who came even into the slightest contact with him were immediately impressed. His published work, though small in amount, shows that he had the power to write a great book on any branch of law which he might choose to select. In his "Elements of Law" he succeeded in accomplishing the difficult task of stating accurately, simply, and in small compass the leading principles and rules of English law. In his articles on the Osborne Case he dealt in an impartial and masterly manner with new and complex problems, the right solution of which is rendered difficult by political prejudice.

In his inaugural lecture as Vinerian Professor on the subject of "Legal Personality" he showed powers of analysis and reasoned argument, a knowledge of legal literature, English and foreign, and a capacity for sane speculation, which would have enabled him to write a great book (for which there is crying need) on the juridical aspects of associations, corporate and unincorporate, and on those

aspects of the trust concept with which the law of associations is intimately connected. The value of his work on the "Digest of English Civil Law" is by no means to be measured by the small portion of which he was the author. During the meetings of the authors, at which, for a long succession of years, we discussed one another's work, he was the most useful and important member. I have no hesitation in saying that it is to his powers of analysis, criticism, and accurate draftsmanship that the work owes a large part of its success. Students of the classics may regret that he deserted the classics for law, and we lawyers may regret that he gave to the administrative work of the University what he might have given to legal science. But we all recognize that as a lawyer and a teacher of law he was the worthy occupant of a chair of which as he truly said, in his inaugural lecture, "the first and last traditions are so splendid."

In this sentence from his inaugural lecture Geldart has in effect summed up the place which Dicey will take in the legal literature of the nineteenth century. He will hold in the history of the legal literature of the nineteenth century a place not unlike that which Blackstone holds in the history of the legal literature of the eighteenth century. Both have written books which have been accepted by their contemporaries as books of authority, and, as we shall see later, Dicey's work has contributed largely to the fulfillment of Blackstone's prophecy of the effects of a scientific study of English law at a university, both upon the law and upon the teaching of law. His three greatest works—the works which will give him a permanent place in English legal history—are his books on the "Conflict of Laws," on "The Law of the Constitution," and on "Law and Opinion in England." The subject of the Conflict of Laws is one of the most recent branches of English law. It is most attractive to a lawyer; for it has been developed logically by decided cases, and it is almost unspoiled by the Legislature.

From this point of view it may be said that it is in somewhat the same state as that in which a large, perhaps the large-

est, part of English law was in when Blackstone wrote. And just as Blackstone was, for that reason, able to present a reasoned, a well-balanced, and a comprehensive account of the English law of his day, which, in the succeeding age of unparalleled legislative activity, has done much to preserve both in England and the United States the fundamental principles of the law, and has become the most valuable of all our sources for the legal history of the eighteenth century, so Dicey was able to present a reasoned, a well-balanced, and a comprehensive account of the judicial activity which in the course of the last century has added a new chapter to English law. In his works on "The Law of the Constitution" and "Law and Opinion in England" he has done for English public law and for the legal history of the nineteenth century all, and in some respects more than all, that Blackstone did for the public law and the legal history of the eighteenth century. His book on the "Conflict of Laws" shows that he was one of the greatest lawyers of his day. These two books on "The Law of the Constitution" and "Law and Opinion in England," show that his gifts as a legal historian were equal to his gifts as a lawyer.

Of this combination of gifts, his valedictory lecture on Blackstone is a striking example. Of his great predecessor and of his place in English legal history he has said the final words. It only remains for his successors to add a few details to the bold lines of the picture which he has drawn. It is partly from a wish to add a few of these details that I have chosen to lecture on Charles Viner, the founder of the Vinerian chair. Partly also I have chosen this subject because it is as well that the University should remember its benefactors, and more especially benefactors to whom scant justice has been done by their biographers. Moreover, Viner's great Abridgment, to the composition of which he devoted his life, will give me the opportunity to say something, firstly, of that great literature of Abridgments, which is as peculiar to English law as its system of case law; and, secondly,

of the merits of that old and well-tried legal order of English law—the alphabet. I propose, therefore, to divide my lecture into the following three parts: I. Charles Viner and the Foundation of the Vinerian Chair. II. The Abridgments of English Law. III. The Alphabet as a Method of Legal Arrangement.

I. Charles Viner and the Foundation of the Vinerian Chair.

Charles Viner was born at Salisbury in 1678.¹ He matriculated at Hart Hall, Oxford, on February 19, 1694–5.² On November 27, 1700, he was admitted a member of the Middle Temple, but was never called to the Bar.³ On February 9, 1727, he was admitted a member of the Inner Temple, and on May 31, 1728, was admitted to chambers at No. 3 (South) King's Bench Walk, which he held till June 12, 1752.⁴ Till that date he resided either there or at his house at Aldershot.⁵ When he died on June 5, 1756, he left a widow; but there is no record of who or when he married.⁶ He was never under the necessity of earning his living,⁷ and he devoted both his time and his money to promoting the study of English law—in his lifetime by composing and publishing his great Abridgment, and after his death by the establishment of the Vinerian chair and Vinerian scholars.

He had formed the resolution of making a complete Abridgment of English law ever since he had become a student at the Middle Temple. "The commencement of this work," he said in 1742, in

¹ D. N. B.

² Foster, "Alumna," Early Series.

³ Hutchinson, "A Catalogue of Notable Middle Templars."

⁴ University Archives, Viner. The sub librarian of the Inner Temple has very kindly verified the facts as to Viner's membership and the position of his chambers.

⁵ University Archives, Viner, D. N. B.

⁶ This appears from the Resolutions of the Delegates of Convocation, 1758, contained in papers relating to the benefaction of the late Charles Viner, Esq., which are in the Bodleian Library, Gough, Oxford 96, hereinafter referred to as Papers, etc.

⁷ "The love of money I have always been a stranger to, and I thank God I never knew the want of it." Preface to volume 18 of the Abridgment; this was volume 6 of the original issue, but it is more convenient to refer to the volumes of the Abridgment by their number in the completed work.

the preface to the first published volume of his Abridgment,⁸ "was with the present century, at which time I was admitted a member of the Honorable Society of the Middle Temple, and attended, as a student, the Courts of Westminster." But the appearance of D'Anvers' Abridgment and ill health led him to lay aside his resolution for some years, and when he began to revise his work he at first simply supplemented the work done by D'Anvers.⁹ It was not till after 1727, when a supplement to the second volume of D'Anvers' Abridgment containing the title "Error"¹ appeared, that he seriously thought of transcribing and publishing his work;² and the existence of this unfinished Abridgment of D'Anvers, the execution of which he admired,³ determined the order in which he published his volumes. He began at the letter "F" because D'Anvers had finished his work down to the end of the letter "E" in 1734.⁴ The first volume was published in 1741, and the succeeding nine volumes to the end of the alphabet were published between 1742 and 1745. Between 1746 and 1756 he completed and finished the printing of twelve more volumes containing the titles between the letters "A" and "E," and he completed and partly finished the printing of general indices

to the whole work.⁵ The work thus consisted of twenty-three volumes.

It is one thing to write a book of this size; it is quite another to get it published. It was necessary to come to an agreement with the law patentees; that is, with the booksellers who had got the royal license to print statutes.⁶ They certainly would, as their action against the Cambridge University Press showed,⁷ have taken action against an author who infringed their patent by publishing statutes in an abridged form. It was difficult to find a publisher for a work of these dimensions, more especially as there were already several Abridgments on the market in which the law publishers had an interest. Viner, not without difficulty, it would seem, came to an agreement with the law patentees, and as the publishers would offer him no more than £500 for his work,⁸ he resolved to become his own publisher. The work was printed at his own expense,⁹ and published in unbound parts at 25s. a volume¹ at his own house in Aldershot, on paper specially manufactured for the purpose.² It was no wonder that the undertaking was considered to be, as he says, "somewhat romantick."³ It was no wonder that it was ridiculed by some of the law

⁸ Volume 13 of the completed work.

⁹ Preface to volume 13.

¹ D'Anvers' first volume appeared in 1708, his second in 1713, and his third in 1737. In 1727 appeared the single title, "Error," which Viner tells us (preface to volume 18) "at first was entitled a continuation of the second volume, tho' afterwards it was new named, and then called part of the third volume." In the Bodleian edition of D'Anvers' this title is missing. In the Lincoln's Inn copy, it is part of the second volume.

² "Having never entertained any thoughts of making public my own collections, till after the coming out of Mr. Nelson's and the title (Error) of Mr. D'Anvers." Preface to volume 13.

³ See the prefaces to volumes 13 and 18.

⁴ The volumes were originally issued in the following order: 1. Factor—Funeral Charges; 2. Game—Judgment; 3. Judicial—Names; 4. Not Guilty—Prerogative; 5. Prerogative—Prohibition; 6. Prohibition—Replevin; 7. Replevin—Steward; 8. Stocks—Trespass; 9. Trial—Union of England and Scotland; 10. University—Year Day and Waste; 11. Abatement—Actions; 12. Actions—Appendant; 13. Appendant—Bailiff; 14. Bailiff—Common; 15. Common to Consuance of Pleas; 16. Consuance of Pleas—Court; 17. Court—Descent; 18. Descent—Dismes; 19. Dismes—Error; 20. Error—Execution; 21. Execution—Extraparochial; 22. Evidence; 23. Indices.

⁵ See the advertisement of his executors in the University Archives, printed App. II. The last-dated volume, vol. 20, Error—Execution, is dated 1753; the two succeeding volumes have no date. But it would seem from the advertisement and the note at the end of the indices that volume 21 was published before Viner's death, and that volume 22 and the indices were published in 1757. The note, however, is misleading when it speaks of republication in 1757; the only changes made were the removal of the dates on the title pages, of a somewhat querulous preface to volume 1 (volume 11 in the original issue), and of an advertisement to volume 19 (volume 7 in the original issue).

⁶ There are several letters relative to this matter in Viner's papers in the University Archives.

⁷ *Baskett v. Chancellor, Masters and Scholars of the University of Cambridge* 1743–1758) 1 Burr. 661; the case is alluded to by Viner, preface to volume 18.

⁸ This is stated in a letter or memo, in Viner's handwriting, in the University Archives. It is undated, but internal evidence shows that it was written after 1748.

⁹ It appears from the preface to volume 18 that it was printed at the Savoy; he complains that he was not allowed to come to the printing office to see his work printed.

¹ Papers, etc.; and see App. II.

² D. N. B.

³ Preface to volume 13.

publishers, because it diminished their profits, exposed them to risk of loss,⁴ and decreased the sale of the Abridgments in which they had an interest. And it was natural that a man who had always lived a retired life, who considered that he had spent his time and money in conferring upon his country the important service of facilitating the study of the law, should be unduly sensitive to ridicule and criticism.⁵ He exaggerated the importance of ridicule, and quite erroneously thought that the booksellers and printers were leagued together to oppress him and other authors.⁶ He had got the imprimatur of the judges—this he thought should have silenced the ridicule and criticism of the booksellers,⁷

and to further reassure himself he printed the list of subscribers to the work.⁸

Of the merits and defects of the work I shall say something in the second part of this lecture. It had, as we shall see, both considerable merits and considerable defects. And even if its defects were greater than they in fact are, it is impossible not to admire the industry and perseverance with which Viner devoted his life to making as good and perfect a statement of English law as he was able. "I never knew," he said truly, "what it was not to be in earnest in whatever I undertook";¹ and his work was not wasted. The Abridgment had a considerable success.² The first edition was nearly all disposed of within two years of Viner's death; Robert Kelham, attorney antiquary, and student of Domesday Book, published a concordance of Abridgments in 1758 "chiefly calculated to facilitate the references to the General Abridgment of law and equity by Charles Viner Esqre.," a second edition appeared between the years 1791 and 1794, and a supplement in six volumes was published between the years 1799 and 1806. But, in spite of the considerable success of the Abridgment, it is certainly true that Viner did more to further the cause which he had at heart by the manner in which he disposed of his money after his death than by all his toil and expenditure during his life.

In 1753 Blackstone, on the advice of Murray, the solicitor general, had made a new departure by giving lectures on English law at Oxford.³ It has been

⁴ George Faulkner, the publisher of the Dublin Journal, in a letter to Viner dated February 6, 1749, said that the booksellers of London "loudly complain against you for making slaves of them, and allowing them no profits for goods that they are obliged to give long credit for, and perhaps for some that they will never be paid for. Have you not, as they say, the profits of an author, a printer, a bookseller, and a banquier." University Archives.

⁵ Thus Worrall wrote in the 1746 edition of his law catalogue: "As an apology why I have not fixed the price, I beg leave to acquaint the reader that Mr. Viner prints his Abridgment at his own expense, at his dwelling house at Aldershot near Farnham in Hampshire, and sells them at his Chambers in the King's Bench Walks, allowing those booksellers who sell his books the advantage of bringing customers to their shop for their profit; and if a bookseller is not pleased with this, he is thought an enemy to the work, and may disoblige either his customer or Mr. Viner." "Notes and Queries" (2d Series) ii, 85. Viner's remark on this in the suppressed preface to volume 1 was: "As to Mr. Worrall's Peevish Advertisement in his last Catalogue, relating to this work, it is scarcely worth taking any notice of, it being Silly, And much the more so, as it is False to his own Knowledge." Another illustration is to be found in a letter of 1749 in the University Archives; his counsel in a chancery suit had ventured on the pleasantry of referring to his client as "the Abridgment man," and this is Viner's comment: "Scoundrell expression and description of me fitter to have come out of the mouth of a Shoo Cleaner or a Black guard than of a gentleman of the profession. I will * * * make the conceited gentleman know his want of behaviour as a gentleman of decency to his superiours, not only of that court in which he used that scoundrell expression, but likewise of all other courts of Westminster Hall."

⁶ An anonymous letter which Viner received from Dublin, January 3d, 1748, told him that the Irish booksellers, financed by the London booksellers, were going to pirate his work. This was a mere tale, but it probably frightened him. See the suppressed preface to volume 1 and the preface to volume 18.

⁷ "The Imprimatur of Allocatur of the judges to my work is to be laid as it were under an embargo till they (the law booksellers) have signed and countersigned a passport." Preface to volume 18.

⁸ Preface to volume 1.

¹ Preface to volume 18.

² It would seem from the list of subscribers in the index volume that some 400 copies were sold in Viner's lifetime, and there may have been other purchasers through booksellers whose names did not get on the list. In 1757 some 400 copies remained; see the advertisement of the administrators printed in App. II. In 1758 ninety-six sets and 3,008 odd volumes remained on hand. Papers, etc. It is not unlikely that Viner printed an edition of 1,000 copies.

³ Dr. Blake Odgers, in his papers on Blackstone in 27 Yale Law Journal, pp. 604, 605, points out that there is no evidence that Murray advised Blackstone to read lectures on English law; but as a new professor of Roman law had just been appointed, and as Murray was keenly alive to the want of elementary teaching of English law (see his remarks cited by Dicey in his lecture on Blackstone, National Rev. 1909, liv, 603, 604), it is not unlikely that his advice to Blackstone was to read on English law.

conjectured that it was owing to the success of these lectures that Viner conceived the idea of leaving his money to found a professorship of the common law at Oxford.⁴ But this conjecture is without foundation. Viner had conceived this idea, and had made a will to give effect to it on July 1, 1751, more than eleven months before Blackstone had advertised, and more than sixteen months before he had given his first lecture.⁵ This will and two other wills made in the same year were canceled after a correspondence with Dr. William King, the Jacobite principal of St. Mary's Hall;⁶ and the bequest assumed its final form in a will dated December 29, 1755. Viner had determined to leave his money in this way, not because of the success of Blackstone's lectures, but because, as Blackstone pointed out, 'he saw that the teaching of English law at a university was the best way to facilitate the great object of his life—the promotion of the study of that law.'⁷ The standard of teaching at the University was, it is true, at a low ebb; but it had not, as at the Inns of Court, wholly disappeared. In fact, the terms of Viner's will⁸ show that this was the reason for and the object aimed at by his bequest. He wished "that young gentlemen who shall be students there, and shall intend to apply themselves to the study of the common laws of England, may be instructed and enabled to pursue their

studies to their best advantage afterwards, when they shall attend the courts at Westminster, and not to trifle away their time there in hearing what they understand nothing of, and thereupon perhaps direct their thoughts from the law to their pleasures."

With this object in view, a professor, fellows, and scholars were to be endowed, and a sum of money was to be raised for the continuation of the Abridgment. The scholars were to be junior members of the University of at least two years' standing, and the fellows masters of arts or bachelors of civil law. Both were to be attached to the college or hall selected by Convocation. The fellows were to teach the scholars, who were normally in course of time to become fellows; and the professor was normally to be chosen from the fellows. The election of the professor, fellows, and scholars was to be made by Convocation. Thus a complete scheme was outlined for introducing for the first time into the studies of the University the subject of the common law of England. And so keen was Viner upon its establishment that it would seem that he somewhat neglected the claims of his aged wife, who died five years after him in 1761. At any rate, the Delegates appointed by Convocation recommended that the Professor should supplement Viner's bequests to her by the payment of £50 a year from his stipend during her life.⁹

Within a year and a half of Viner's death his estate was wound up, and the University appointed Delegates of Convocation to draw up a scheme to give effect to his intentions.¹ The scheme which they proposed was in substance as follows: In the first place a professorship was to be established, with a salary of £200 a year. The professor was to be at least an M. A. or a B. C. L. of ten years' standing, and he was to be elected by Convocation. He or his deputy was to read one solemn law lec-

⁴ This is stated by J. Holliday, "Life of Mansfield," 89, and is copied by Campbell, "Lives of the Chief Justices," ii, 379. Dr. Blake Odgers, 27 Yale Law Journal, 607, is skeptical, and rightly so.

⁵ App. III.

⁶ University Archives. The correspondence is printed in Papers, etc., but the name of Viner's correspondent is suppressed. King had been educated at Salisbury, and this may have led to his acquaintance with Viner.

⁷ "From a thorough conviction of this truth our munificent benefactor Mr. Viner, having employed above half a century in amassing materials for new modelling and rendering more commodious the rude study of the laws of the land, consigned both the plan and execution of these his public spirited designs to the wisdom of his parent University. Resolving to dedicate his learned labours 'to the benefit of posterity and the perpetual service of his country' (preface to volume 18), he was sensible he could not perform his resolution in a better and more effectual manner than by extending to the youth of this place those assistances of which he so well remembered and so heartily regretted the want." Comm. Intro. i, 27, 28.

⁸ App. I.

⁹ University Archives; Papers, etc.; section 6 of the Resolution of the Delegates. Viner left his wife his household goods, £50 in cash, an annuity of £50 a year, and a copyhold estate worth £30 a year.

¹ Bl. Comm. i, 28, note.

ture on the laws of England in English on a stated day in each full term, and a complete course of sixty lectures on the laws of England throughout the year. For this course of lectures he could charge a fee to all students except the Vinerian scholars, who were to be obliged to attend two courses before they took their degree. The old Convocation house and the room over it were to be fitted up as a school of municipal law. The fellows were to be paid £50, and the scholars £30, a year. They were to be elected by Convocation, and were to hold office for ten years. Former scholars were to have the preference in the election to fellowships. Fellows and scholars were to continue to be members of their respective colleges or halls, unless it was found practical (which it was not) to "appropriate some particular college or hall for their reception."³

Within six months of the appointment of the Delegates their scheme was approved by Convocation—July 3, 1758.⁴ Blackstone was elected first Professor by Convocation on October 25, 1758.⁵ On the following day he issued notices as to the dates of his inaugural lecture and his course of sixty lectures.⁶ On the same day two Vinerian scholars were elected; and in 1761 the state of the fund was found to be sufficient to

allow the election of a fellow.⁷ Blackstone was thus justified in saying that the scheme was carried into execution with "unexampled dispatch." But cranks were as common in the University of the eighteenth as in subsequent centuries, and so the scheme was not carried into execution without opposition, and without the familiar accompaniment of numerous tracts.⁸ On this occasion the opposition was unusually factious, as was shown by a masterly paper which was probably written by Blackstone.⁹ But it would seem that for some years after the opposition tried to revenge itself by a petty persecution of Blackstone.¹ Blackstone was not the most even-tempered of men, and in July, 1761, he issued a paper in which he complained of "the series of peevish opposition and personal insult which he has met with in the execution of his present employment."²

These details, though interesting as part of the history of the foundation of the Vinerian chair, have long been forgotten. What is remembered, and rightly remembered, is the splendid success of Blackstone, the first Vinerian Professor of the old foundation, and of Dicey, the first Vinerian Professor of the new. And these two great professors are united, not only by the fact that they are incomparably the most dis-

³ Viner had wished to establish his professor, fellows, and scholars in a college; but Dr. King dissuaded him, on the ground that "the established fellows will always refuse to admit the new ones to the same privileges and emoluments with themselves, and in that case your fellows will only be taken in as Exhibitioners." He therefore recommended a hall, which might be made a college of the common law, as Trinity Hall, Cambridge, is for the civil law. Hart Hall, his own hall, he said was impossible, as it was "a college of priests only." He therefore advised Viner to leave it to Convocation to make choice of a hall. Papers, etc. I find no evidence for Dr. Blake Odgers' statements, 27 Yale Law Journal, 611—(1), that Blackstone wished to unite the professorship with the leadership of one of the smaller colleges or halls, and so make the college or hall a school of English law; and (2) that the Delegates proposed a scheme to carry this object into effect.

⁴ Bl. Comm. i, 28, note.

⁵ Id. Dr. Blake Odgers, 27 Yale Law Journal, 607, has confused the mode of election directed in 1758 with the present mode directed in 1867 and 1877 on the refoundation of the chair.

⁶ App. IV. For the advertisement and timetable of his course of lectures issued in 1759–60, see App. V.

⁷ Bl. Comm. i, 28, note.

⁸ Papers, etc.

⁹ "An examination of the objections to the Resolutions of the Delegates of Convocation for settling the benefaction of the late Charles Viner Esqre., Papers, etc." See also a skillfully drawn paper which contains in juxtaposition the clauses of Viner's will, the Resolutions of the Delegates of Convocation, and the statutes founded thereon. Id.

¹ Thus Blackstone had announced on October 21, 1758, that he proposed to read a general introductory lecture in the history school on Wednesday October 25th; but Wednesday, October 25th, was not the first Monday in full term prescribed by the statute for the solemn lecture. Blackstone was for that reason charged with arbitrarily changing the date fixed by the statute, and was obliged to issue a paper explaining that his lecture on the 25th was "a super-numerary public lecture by way of general introduction to the course which he is engaged on." Convocation also refused to comply with his request to dispense those Vinerian scholars with attendance on his course who had already attended his lectures given before he became professor.

² The letter was called forth by objections raised to his appointment of deputies to read his solemn lectures.

tinguished holders of this chair, but also by an even more interesting tie. Dicey, in his inaugural lecture on the teaching of law at the universities,³ and in that valedictory lecture on Blackstone to which I have already alluded, showed that Blackstone's prophecy of the effects of the scientific study of English law at a university upon the law and upon the teaching of law, though it waited long for its fulfillment, has at length been fulfilled.

Of the effects upon English law of its study at a university, Blackstone said in 1758;⁴ "The leisure and abilities of the learned in these retirements might either suggest expedients, or execute those dictated by wiser heads, for improving its method, retrenching its superfluities, and reconciling the little contrarieties, which the practice of many centuries will necessarily create in any human system; a task, which those, who are deeply employed in business and the more active scenes of the profession, can hardly condescend to engage in." In 1909 Dicey wrote:⁵ "The commentator anticipated and marked out the path of reform which now for well-nigh fifty years has been pursued in England by the ablest professorial expositors of our law. Inspired by the spirit of Blackstone, they have tried 'to teach jurisprudence to speak the language of the scholar and the gentleman,' and have reasserted and re-established the union between law and letters." He pointed out that in consequence there has been, from the middle of the nineteenth century onwards, a great revival of legal literature which is "almost wholly the work of professorial men"; that the consequent "popularization of legal ideas has stimulated the effort to reduce the rules of English law to such a body of principles as is to be found in 'Stephen's Digest of the Criminal Law,' or 'Chalmers' Digest of the Law of Bills of Exchange'; and that "these unauthorized digests, some of which have already passed into Acts of Parliament,

are laying the foundation of a complete code of the law of England."⁶ As I have already said, Dicey's works are by far the best illustration of the truth of his statements, and the strongest proof of the effects upon English law of the labours of "professorial men."

Of the effects of the teaching of law at a university, Blackstone's prophecy has been proved to be equally true. If he said, a student trained at the university "will afford himself here a year or two's farther leisure to lay the foundation of his future labours in a solid scientific method, without thirsting too early to attend that practice which it is impossible he should rightly comprehend, he will afterwards proceed with the greatest ease, and will unfold the most intricate points with an intuitive rapidity and clearness."⁷ This truth was taken to heart more quickly in the United States than in this country.⁸ "If," said Dicey in 1883,⁹ "the question whether English law can be taught at the universities could be submitted in the form of a case to a body of eminent counsel, there is no doubt whatever as to what would be their answer. They would reply with unanimity and without hesitation that English law must be learned and cannot be taught, and that the only places where it can be learned are the law courts or chambers." Like Blackstone before him, he contended that "academical instruction ought to form the proper preparation for observation of business in London," and he affirmed that "the law of England can be taught as it can nowhere else at the universities."¹ His own work and the work of the school, which grew and flourished while he held this chair, have so completely proved the thesis for which he and Blackstone contended that we have some difficulty in realizing that it was so long unrecognized.

The university and Viner were fortunate in securing a professor who was able so exactly to carry out the objects

⁶ *Id.* 670-675.

⁷ *Comm. i.* 34.

⁸ Dicey, *Nat. Rev.* 1909, liv. 668, 669.

⁹ Inaugural Lecture, p. 1.

¹ Inaugural Lecture, p. 18.

³ "Can English Law be taught at the Universities?" Inaugural Lecture, 1883.

⁴ *Comm. i.* 30.

⁵ *Nat. Rev.* 1909, liv. 669, 670.

to which Viner had devoted his life. But, by a curious irony of fate, it was partly because his object was so exactly carried out that the plan upon which his Abridgment was executed had become antiquated early in the following century, and that it has consequently been exposed in our days to a criticism which is unduly harsh. The reasons for this we shall see when we have examined the great series of abridgments which, from a very early date in the history of English law, has characterized English legal literature.

II. *The Abridgments of English Law.*

The extent to which the alphabet has dominated the literature of English law is only equaled by the manner in which the English system of case law has dominated, not only the common law, but all other allied systems which have come within its influence, and these two phenomena are not, as we shall see, wholly unconnected. Both the two main sources of English law—case law and statute law—have from an early date been arranged in abridgments on the alphabetical plan. But while some of the abridgments of case law have developed with the growth of English law into our modern legal encyclopædias, the abridgments of statute law have remained simply abridgments of statute law and nothing more. Necessarily this manner of stating the two great sources of English law has exercised a powerfully attractive influence upon the authors of books on particular branches of English law. Many books dealing with many different parts of English law have been arranged on the alphabetical plan. And the influence of this manner of stating the law did not stop here. It has exercised an influence almost equally great upon the manner in which students acquired their knowledge of the law; for, as we shall see, the making of a "commonplace" book or alphabetical abridgment was from an early date, and long continued to be, the approved method of acquiring a knowledge of law. I shall therefore, in the first place, say something of the abridgments of the statute law, and of other books on particular

branches of English law which have been alphabetically arranged. In the second place, I shall say something of the way in which "commonplacing" was used by students as a means of acquiring legal knowledge. In the third place, I shall deal with those abridgments of case law which have developed into our modern legal encyclopædias.

(1) One of the earliest of the law books to get into print was an Abridgment of the Statutes, which was printed by Lettou and Machlinia in 1481.² The latest statute abridged is of the year 1455, so that it was already old when it was printed.³ It is not at all improbable that still older abridgments were made which are now lost; for, as we shall see, the idea of making an alphabetical abridgment of case law had occurred to lawyers at a much earlier date. In 1499 Pynson published a reprint and a continuation of this work,⁴ and in 1519 John Rastell published a translated abbreviation of the statutes up to date, which was based upon it.⁵ From that date onwards the stream of abridgments begins to flow. They are now represented by "Chitty's Statutes of Practical Utility." As early as 1538 the plan of making a collection of statutes dealing with a particular topic has been adopted by Berthelet, who published a collection of statutes to be executed by the justices of the peace,⁶ and in 1560 Pulton published "An Abstract of all the Penal Statutes that be General."⁷ Some of these collections of statutes, notably those relating to the justices of the peace, early succumbed to the alphabetical arrangement. In 1618 the lawyers who wrote on the justices of the peace abandoned the method of systematic exposition so successfully employed by Lambard, and began to adopt the alphabetical arrangement. Dalton, in his "Country Justices," adopted this arrangement in that part of his book

² Statutes (R. C.) i, xxi, App. A, No. 1. A copy of this is in All Souls' Library at the end of an edition of Littleton's "Tenures," printed by the same printers; a leaf of this old abridgment is in the Bodleian. Ins. c. E 7, 1 (3).

³ Statutes (R. C.) i, xxi, App. No. 8.

⁴ Id. No. 13.

⁵ Statutes (R. C.) i, xxi, App. A, No. 26.

⁷ Id. No. 38.

which deals with the powers of the justices, and it is the ancestor of a long line of books which deal with this topic in a similar manner. It was adopted by the makers of those many books of entries of the sixteenth and seventeenth centuries, in which the precedents of pleading are grouped under writs alphabetically arranged. Even the rules governing that most logical of arts—the art of pleading—were thus treated by Sampson Ever in his “*Doctrina Placitandi*,”⁵ which was a famous book in its day.⁶ One of the earliest collections of notes upon equity cases was arranged by its author, Tothill, on these lines;¹ and in “*Equity Cases Abridged*,” which was published in 1792, there is to be found a very complete and full alphabetical summary of the equity decisions down to that date.² Even ecclesiastical law fell under the same influence. It was treated alphabetically by Burn, the first edition of whose book was published in 1763.

(2) More directly connected with the alphabetical abridgments of English law which have developed into our modern legal encyclopædias are the abridgments or commonplace books made by students of the law. It is, I think, now generally agreed that the earliest Year-Books were students’ notebooks. Early in the fourteenth century the heterogeneous character, which necessarily characterizes a collection of cases, suggested to some of these students or practition-

ers, who made or had made for them MSS. of the Year-Books, the need for some device to make their contents available. Prefixed to one of these MSS.³ is a *Calendarium* which is arranged on a very rough alphabetical principle. This *Calendarium* is not an abridgment, but it represents a device from which an alphabetical abridgment could easily be developed. We know nothing of the stages by which the regular alphabetical abridgments in fact developed from *Calendaria* of this type. But we shall see that alphabetical abridgments of cases got into print very shortly after the introduction of printing. This shows that the making of abridgments was, like the making of reports, an established practice amongst the lawyers.⁴ We may therefore perhaps infer that, just as in succeeding periods students’ reports and abridgments existed side by side with the practitioners’ more elaborate reports and larger abridgments, so in the mediæval period students sometimes collected and summarized in this way the information which they had gathered in the courts. But it would seem that it was the cessation, in the course of the seventeenth century, of the moots, readings and other exercises at the Inns of Court which made the practice more general than ever before.⁵ It is quite clear that in the seventeenth century the making of a “commonplace,” i. e., an alphabetical abridgment, was regarded as indispensable to the student. Hale in his preface to “*Rolle’s Abridgment*,” pointed out its advantages and gave some advice as to its construction,⁷ and that he practised what he preached his commonplace book in Lincoln’s Inn Library shows.⁸ North said of this

⁵ *Doctrina Placitandi*, ou L’Art et Science De bon Pleading; Monstrant lou et en queux cases et per queux persons, Pleas, cy bien Real, come Personal ou Mixt, poient estre proprement Plades; et e converso.” It was published in 1677.

⁶ That it was a useful book, much studied by eminent pleaders, can be seen from the interleaved and elaborately annotated copy in two parts in Lincoln’s Inn Library, presented by William Garrow, Solicitor General, Attorney General, and Baron of the Exchequer. See Foss, “Judges,” ix, 86–90. Garrow says: “All the written notes in this part are written by me; they were copied whilst I was a pupil with Mr. Crompton from his books, which I understood were formed by Mr. Justice Yates, augmented by Mr. Justice Ashhurst and Mr. Justice Buller, to the latter (of whom) Mr. Crompton was a pupil.” It also won high praise from Willis, C. J. *White v. Willis* (1759) 2 Wils. at page 88.

¹ He was one of the Six Clerks. His book was published in 1649; there was a second edition in 1671, and reprints in 1820 and 1872. Wallace, “*The Reporters*,” 474–476.

² Wallace, “*The Reporters*,” 490–492.

³ Hale MSS. Lincoln’s Inn, 137 (2). This characteristic is noted by Sir Paul Vinogradoff in *Y. B. 6 Edw. II* (S.S.) xli.

⁴ See the passage in Sir W. Callow’s will, dated 1485, in which he refers to two abridgments “oon of myne owen labour and thother of Lincolnsin labour,” cited by Mr. Turner, *Y. B. 4 Edw. II* (S.S.) xxxiv.

⁵ Thus D’Ewes in his autobiography gives us many particulars of the moots he argued, the readings he attended, and the cases he reported, but he does not appear to have made an abridgment.

⁷ Preface to *Rolle’s Abridgment*.

⁸ “Whoever begins a commonplace book must be beholden to some friend for a list of titles, and if they would be satisfied of the manner, I

practice:⁹ "It is so necessary that without a wonderful, I might say miraculous, felicity of memory three parts of reading in four shall be utterly lost to him who useth it not;" and all the writers of students' books of this period gave the same advice.¹ Under these circumstances it is not surprising that the publishers found it a profitable venture to issue, "An Alphabetical Disposition of all the heads necessary for a perfect Commonplace."² The first issued was by Samuel Brewster, of Lincoln's Inn. It is an elaborate scheme for the arrangement of the law under 1622 numbered heads and subheads. That it was used is clear from the fact that the Bodleian contains an interleaved and much annotated copy.

(3) Just as the students' notes of cases developed into the regular series of Year-Books, so the device of making a Calendarium was adopted and developed by practitioners who wished to make their Year-Books accessible. In fact, students' commonplace books have had, both in their origin and throughout a large part of their history, as close a connection with the abridgments made by practitioners as the Year-Books have with the modern reports. These abridgments made by practitioners probably represent the more elaborate efforts made by mature lawyers to do perfectly what they had begun to do imperfectly as students. Like many of the reports, they were in many cases made solely for the authors' own use; their publication was sometimes posthumous,³ and some still exist in MS.⁴

should refer to Lincoln's Inn Library, where the Lord Hale's commonplace book is conserved, and that may be a pattern *inster omnium*," North, "A Discourse on the Study of the Laws," 37; Hale MSS. 191. It is entitled by Hale "The Black Book of the New Law," and is written by Hale himself in law French. It consists of 502 folios, twenty being blank. The cases under each head are numbered; but as is the case with the printed abridgments of the Y.B.B., there is no attempt at classification. Interspersed throughout the book are additional leaves, containing fresh cases collected after the original book had been completed.

⁹ North, *op. cit.* 24.

¹ See the authors cited in the note to North's Discourse at pages 101, 102.

² "The Term Catalogues," 1, 405, 450.

³ El g., Brooke's and Rolle's Abridgments and Comyn's Digest.

⁴ See Y.B. 4 Edw. II (S.S.) xxv, where Mr. Turner describes a MS. abridgment of Henry

The evolution of our modern legal encyclopædias from these abridgments is a curious piece of legal literary history. It may, I think, be roughly divided into three periods.

In the first period the abridgments take the form of short notes of cases from the Year-Books, arranged very heterogeneously under alphabetical headings. Like the Year-Books, Littleton, and the Abridgments of the Statutes, they began to appear in print at an early date. The earliest is "Statham's Abridgment," which was published in or about 1490. It was followed by the "Abridgment of the Book of Assizes," which was published by Pynson in 1509 or 1510. But both these works were superseded by the much more elaborate works of Fitzherbert, which was printed in 1514, and of Brooke,⁵ which was published after the death of the author in 1568. The last-named Abridgment contains besides the Year-Book cases, cases from the reigns of Henry VIII, Edward VI, and Mary. We know nothing of the manner in which these abridgments were compiled. But, if we consider the size and completeness of the two great abridgments of Fitzherbert and Brooke, we must, I think, suppose that the authors were helped by their pupils, and that the custom of making abridgments was so well established that the authors were able to build upon collections which were already made by themselves and others.

These abridgments are simply digests of case law. They include nothing else. And from this point of view they may be regarded as directly connected rather with such digests as Fisher's, Chitty's, or Mews' than with our modern legal encyclopædias. But they are connected also with these encyclopædias. In fact, it was a perception of their great defect—the heterogeneous character of the

VIII's reign. As he says, probably many were compiled in the Tudor period.

⁵ For these abridgments, see Mr. Turner's Introduction to Y.B. 4 Edw. II (S.S.) xxix-xxxvi; Holdsworth, H.E.L. (3d Ed.) 548-546. It should be noted also that in 1585 Bellewe made an abridgment of the Y.B.B. of Richard II's reign from Statham, Fitzherbert, and Brooke's Abridgments. As these Y.B.B. are not in print, these abridged cases are our only authority for the case law of that reign.

entries collected under each alphabetical head—which was the cause of the first development in this direction. Staunford, in the dedication of his treatise on the prerogative to Nicholas Bacon, had pointed out this defect in 1548;⁶ and Francis Bacon suggested the composition of a new abridgment "composed of the two that are extant, and in better order."⁷ It was the attempt to remedy this defect which produced abridgments of a new type.

The first of the abridgments of the new type, which marks the beginning of our second period, is that of Rolle. Rolle was born in 1589 and died in 1656. He was one of that band of literary and historically-minded lawyers which, as Maitland has said,⁸ made the earlier part of the seventeenth century "the heroic age of English legal scholarship." The literary Renaissance of the Elizabethan age had touched the studies of law and history, and many scholars were working with the enthusiasm of explorers to put them upon a new basis. Rolle was one of that famous band; and Hale drew a pleasant picture of the manner in which Rolle, Littleton, Herbert, and Selden met constantly and almost daily "to bring in their several acquits in learning as it were into a common stock by mutual communication."⁹ Rolle compiled his Abridgment for his own use—probably before 1640.¹ It was published

posthumously with an introduction by Hale—an introduction which is a very valuable historical summary of the development of the common law up to the time of the Restoration. Unlike the older abridgments of the Year-Books, each topic is divided, as Staunford suggested, into headings, and it is more than an abridgment of case law, for it contains summaries of both Parliamentary records and of statutes. It therefore represents a new departure in abridgments which brings us a stage nearer to the modern legal encyclopædia. It was, moreover, a model to later abridgment makers—to Hughes;² to Nelson,³ of whose work Viner thought poorly,⁴ though he used his book;⁵ to D'Anvers, who translated it and added new cases; and, what is most interesting to us, to Viner.⁷ In fact, as Hargrave pointed out, it is the faithfulness with which Viner followed Rolle which gave rise to the greatest defect of Viner's work. An arrangement which was well enough suited to a book in two, was not well suited to a book in twenty-three, volumes.⁸ At the same time he admits that Viner's work was a "useful compilation," and tended "to facilitate the use of the immense body of law and equity."⁹ If we remember the extent of its circulation,

² "The Grand Abridgment of the law continued, or a collection of the Principal Cases and Points of the Common Law of England contained in all the Reports extant from the first of Elizabeth to this present time by way of Common Place" (1660-1662).

³ "An Abridgment of the Common Law being a Collection of the Principal Cases Argued and Adjudged in the several Courts of Westminster Hall, brought down to the year 1725" (1725-1726).

⁴ Preface to volume 13.

⁵ It is clear from the notes and marks in Viner's copy in the Bodleian that he used it in the way he mentions in the preface to volume 13 of his Abridgment, though the notes would seem to indicate that it was more useful to him than he admitted. There are some, but not nearly so many, marks of use in his copy of Hughes' Abridgment.

⁷ "My Lord Rolle whose Abridgment is my text." Preface to volume 13.

⁸ Notes on Co. Litt., note 49 to Co. Litt. 9a.

⁹ "I am the more frequent in my reference to Mr. Viner's Abridgment, because it tends to facilitate the use of that immense body of law and equity; which, notwithstanding all its defects and inaccuracies, must be allowed to be a necessary part of every lawyer's library. It is indeed a most useful compilation, and would have been infinitely more so, if the author had been less singular and more nice in his arrangement and method and more studious in avoiding repetitions." Id.

⁶ "I would wish that amongst such plenty of lerned men as bee at this day some thing were devoyed to help the students of their long journey. * * * Whiche thing might wel come to passe after my poore mynd, if such titles as bee in the great abrigement of Justice Fitzherbert were by the Judges or some other lerned men labored and studied, that is to say, every title by itself by special divisions digested, ordered, and disposed in such sort as that all the judicial acts and cases in the same might bee brought and appere under certain principles, rules, and grounds of the said lawes." He regarded his own work as an essay in this direction; the whole passage is cited in the preface to volume 18 of Viner's Abridgment.

⁷ Spedding, "Letters and Life," vi, 70. Note also that, like Coke (see the preface to 4 Co. Rep.), he deprecated the misuse of abridgments: "I could wish, if it were possible, that none might use them but such as had read the course first; that they might serve for repertoires to lerned lawyers, and not to make a lawyer in haste." But he admitted that this was not possible, and so he made the recommendation in the text.

⁸ "Collected Works," iii, 453.

⁹ Preface to Rolle's Abridgment.

¹ See Foss, "Judges," vi, 473.

it will be clear that this is obviously a far juster estimate than the unduly harsh description given of it by the "Dictionary of National Biography."² In point of fact, the great defect of the work was that it was composed on a plan which, even when Viner was writing, had become obsolete. The third period in the history of these abridgments had already been reached.

The abridgments of the third period tend to be, and have in the nineteenth century become, not notes of cases and statutes roughly put together under alphabetical heads and somewhat arbitrarily chosen subheads, but collections of scientifically constructed treatises on all the branches of the law. The order of the treatises is alphabetical, but the treatises themselves are constructed in scientific and logical fashion. The earliest of these encyclopædias was published by that prolific, and rather second-rate, writer, W. Sheppard, in 1656.³ It is a poor piece of work, something between a law dictionary and a digest. The author produced a revised and enlarged edition in 1675,⁴ but both books were soon forgotten. Comyn's famous "Digest," which was translated from French and published posthumously in 1762, really marks the transition stage. In form it is not unlike the abridgments of the second period; but the logical character of the plan upon which it is constructed puts it in this third period. "The general plan of this Digest," says the editor, "is that the author lays down principles or positions of law, and illustrates them by instances, which he supports by authorities; and these are branched out and divided into conse-

quential positions, or points of doctrine, illustrated and supported in the same manner. By this means each head or title exhibits a progressive argument upon the subject, and one paragraph * * * follows another in a natural and successive order, till the subject is exhausted. It is likewise so disposed that even the titles only of these divisions and subdivisions, and of their several branches * * * being selected from the page or margin, do of themselves disclose, in orderly succession, the several links of the chain of argument contained in the body of the work."

The transition to the new type of abridgment is complete in "Bacon's Abridgment." Viner, indeed, refused to regard his work as an abridgment.⁵ It was rather, he said, "an ingenious system or treatise of law," collected from the works of Chief Baron Gilbert, Hale, Hawkins, and other writers. Viner did not see that abridgments of the older style were really things of the past. But so it was; and the appearance of "Blackstone's Commentaries," the production of which had been indirectly encouraged by Viner's bequest, really made this fact quite clear. It is not surprising to find that "Bacon's Abridgment" had a much larger popularity and a longer life than Viner's. Between 1736 and 1832 it had run through seven editions, it had expanded from three to eight volumes, and Maine called it "our classical English Digest."⁶ Between 1841 and 1844,⁷ and between 1861 and 1864,⁸ the two editions of "Petersdorff's Abridgment" provided an encyclopædia

² "A vast and labyrinthine encyclopedia of legal lore ill-arranged and worse digested." Dr. Blake Odgers, 27 Yale Law Journal, 606, agrees that this censure "is not wholly deserved."

³ "An Epitome of all the Common and Statute laws of this Nation." It is dedicated to Oliver Cromwell. It is divided into 170 chapters, alphabetically arranged; they run from "Acceptance" to "Words."

⁴ "A Grand Abridgment of the common and statute law of England alphabetically digested under proper heads and titles." The arrangement of allotting a chapter to each work is abandoned; there are many more headings, and more information is given. In this, as in the earlier work, the subject-matter is dealt with under each head much more in the manner of a text-book or treatise than of an abridgment.

⁵ "Mine being an Abridgment, whereas the other is not really such, but only called so in order to make it the more saleable * * * that Work I have before now publicly declared to be in my opinion an Ingenious System or Treatise of Law." Preface to volume 18.

⁶ "Early Law and Custom," 371.

⁷ "Practical and Elementary Abridgment of the Common Law as altered and established by the recent Statutes, Rules of Court, and modern Decisions, from M. T. 1824 to M. T. 1840." He had published an earlier abridgment of common law cases from 1660 to 1824 in 1825-1830.

⁸ "A concise Practical Abridgment of the Common and Statute Law as at present administered in the Common Law, Probate, Divorce and Admiralty Courts, * * * comprising a Series of condensed Treatises on the different Branches of the Law." by Google

which embodied the extensive legislative changes of the first half of the nineteenth century, and in the preface to the second edition the author stated clearly the characteristic which distinguishes the modern encyclopædia from the earlier abridgment. The subject-matter of the work, he said, "was arranged in alphabetical and analytical order—the former, as regards the primary title or division; the latter, as regards the subordinate disposition of the materials." To it have succeeded the modern legal encyclopædias with which we are all familiar.

But it is obvious that this new method of constructing an abridgment does not render the material very readily accessible. To meet this defect it has been found necessary to index these modern abridgments, and so to combine the requirements of system and logic with the need for accessibility by a double application of the alphabetical principle. In this way, then, our modern legal encyclopædias have developed from the alphabetically-arranged collections of cases to which the heterogeneous character of case law had, from a very early date, driven our common lawyers. Let us now consider the merits of this alphabetical arrangement of the law, which English lawyers have so long and so extensively used.

III. The Alphabet as a Method of Legal Arrangement.

Students of jurisprudence and institutional writers, rather than practitioners, have interested themselves in speculations as to the best method of arranging a body of law;⁹ and both the theory and practice of a logical method in treating of legal topics owe a large debt to them. It is easy to see why this is so. Both jurisprudence and legal education demand a concentration upon the leading principles of the law, and a consideration of their interrelation. This necessarily brings to the front the question of arrangement and classification of principles, and rules, and, though it

has often led to speculation and controversy of an unprofitable kind, it has helped to improve our legal literature. But the efficacy of scientific schemes of arrangement has its limitations. Whatever a priori principles we lay down as to the arrangement of our code, however logically we develop them and apply them to its composition, the code when complete will be useless without an alphabetical index.

After all the main object of any scheme of legal arrangement is to enable lawyers to find their law. Judged by this test, the alphabetical abridgment, as used and developed by English lawyers, is incomparably superior to any other method. The Roman lawyers, in their larger professional books, followed simply a traditional order. Professor Girard tells us that the arrangement of Justinian's "Code and Digest" follows the arrangement of the *digesta*, or encyclopædias of law made by the juriconsults; and that these were composed on a composite plan, consisting of a first part which corresponded to the commentaries on the edict, and a second which corresponded to treatises on the civil law.¹ Hale truly pointed out that the general heads under which the modern civilians digested their law were "like common Boxes, in which many particulars are placed; but the particulars themselves, their Tractates, Responses, Counsells, and Decisions, have little other method than our Common-Law Books have, or easily may have."²

In fact, the traditional order followed by the Roman lawyers is not unlike the method pursued by Coke in his "Institutes." In the first Institute he pursued the traditional mediæval method of grouping large parts of English private law round its oldest branch—the land law, taking Littleton's summary as his text. In the second Institute he dealt with the enacted law; in the third with the criminal law; and in the fourth with

¹ Girard, "Manual Elementaire de Droit Romain" (2d Ed.) 63. Justinian's and earlier Codes followed this arrangement. Id. 75. And the same thing is true of the arrangement of the Digest. Id. 77; cf. Maine, "Early Law and Custom," 309-371.

² Preface to Rolle's Abridgment.

⁹ See Maine, "Early Law and Custom," 362-367.

courts and their jurisdiction. But this purely traditional method of grouping the legal topics of any given legal system, though it enables lawyers who have been educated in that system to find their law, is hardly satisfactory when its growth has altered the grouping and the relative importance of its parts. It is still less satisfactory for a body of law, like the English law, which is constantly expanding to meet the new needs of a changing society. If the general heads, or "common boxes" in which the law is arranged, are constantly increasing in number, an alphabetical arrangement is obviously better than a purely arbitrary order.

In fact, for such a body of law the alphabet is the only workable expedient. We all recognize that it is the only possible plan upon which a general encyclopædia can be compiled. But a system of law must deal with all sides of the national life; and so, though its contents are very much smaller than the entire body of human knowledge with which a general encyclopædia deals, they are almost as heterogeneous. Necessarily this heterogeneous character is emphasized by the English system of case law, because, as Hale saw, that system keeps the law in constant touch with the multifarious problems of actual daily life, and is therefore "better applicable to the business that comes to be judged by it."³ For this reason the alphabet is as necessary to the arrangement of a complete statement of English law as it is to a complete statement of all the various branches of human knowledge.

The construction of encyclopædias is an old undertaking; but we are told that it was not till the seventeenth century that the obvious expedient of the

alphabetical arrangement was adopted.⁴ It is a testimony to the practical sagacity of English lawyers that they were adopting the alphabetical arrangement, and applying it to the common law, more than two centuries earlier. And the way in which they developed it from small collections of cases and statutes to larger and still larger collections, from somewhat heterogeneous collections of all the rules of English law to the modern encyclopædias logically arranged and elaborately indexed, is a testimony to their power of developing from an obvious expedient a wholly original idea. They have used the alphabet to make English law accessible and by the help of alphabetical indices, that is in effect by the double application of the alphabetical principle to which I have already alluded, they have grouped English law alphabetically into logically arranged treatises, the subjects of which are selected so that due weight can be given both to the historic order of topics in the English legal system and to new topics as they emerge. Thus a method of arrangement has been devised which is free from three of the great weaknesses of a purely logical system—the neglect of the historic order of development, the inaccessibility of the material without the key to the logical labyrinth, and the artificiality which results from the attempt to force multifarious human activities into a purely logical system. I think, therefore, that we should regard the manner in which English lawyers have used and developed the alphabet as a method of legal arrangement as one more example of their practical ingenuity and fertility of invention in matters legal and political, which has given us our modern system of case law and our modern jury system, which made of a mediæval Parliament the principal organ of the government of a modern state, and completed the law of the Constitution by an elaborate superstructure of conventions.

³ The Common Laws of England are more particular than other Laws, and this, though it renders them more numerous, less methodical, and takes up longer time for their study, yet it recompenseth with greater advantages, namely it prevents arbitrariness in the Judge, and makes the Law more certain and better applicable to the business that comes to be judged by it. General Laws are indeed very comprehensive, soon learned, and easily digested with method; but when they come to particular application, they are of little service. Preface to Rolle's Abridgment.

⁴ Encyclopedia Britannica (11th Ed.) tit. 'Encyclopedia,' ix, 372, 373. The first alphabetical encyclopædia written in English was by John Harris, and was published in 1704. Id. 373.

Office Practice

By CHARLES E. CLARK

Professor of Law, Yale University

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SOME years ago, when I forsook the theoretically practical and untechnical pursuit of the law as a practicing attorney for the supposedly more rarefied and Olympian atmosphere of the classroom, I found myself afflicted with a course called "Office Practice." I say afflicted advisedly, for the law teacher who essays a course of the kind I have in mind will find his lot anything but rosy. The purpose of such a course may be termed the consideration of the ordinary legal document—the contract, the deed, the will—as a work of legal art, calling for all the skill and care which the work of any artist demands. The pedagogical path is here uncharted, and I had hoped that a consideration of this topic at this meeting by experts fertile in ideas, like Dean Wigmore and Professor Ballantine, might much alleviate my personal difficulties. The hope, however, that "George will do it" is, I find, usually vain, so far as these Round Table discussions are concerned. Hence, as I suppose I ought to have expected, I now find myself where I at least, and probably you, also, will not be benefited, unless this paper is followed by some discussion. I hope, therefore, to hear the teaching experiences of others on this subject. Let me say that I have with me copies of some of the problems I use and should be glad to discuss them with any who are particularly interested therein. I propose in this paper to give some account of the methods I have followed in the course, and then to close with some more general suggestions.

The great problem of the course is how to stimulate the student's imagination.

The good legal draftsman must have, either by nature or by training, above all else the gift of foresight. In order to guard against future attacks on his instrument, he must have the imagination to visualize the countless situations which may focus about this child of his brain. Along with this goes the stimulation of the memory, so that the lawyer may draw upon all his past legal experience, and the student upon all his past educational experience in all his other courses. Here, of course, is where the lawyer has an advantage over the student. There is no stimulus—no spur to the use of all one's brain powers at once—that is apparently fully comparable to the client's fee. The lawyer will at least have the incentive to use his imagination, even if he has neither the brains nor the training to do so. So the teacher must do the best he can with the best available substitutes with which to create the illusion of reality. A course of training under his psychological associates in the teaching staff of the university in methods of stimulating the imagination might prove valuable. My own results along this line have been by no means uniform, but in view of the results obtained under certain conditions it is at least clear that substitutes are possible.

For every classroom session the student has to work out a special problem. He is given no advance information as to how it is to be done. He must look up his own law and work it out as best he can. Now the rub comes in the nature of the problem, for a formal stereotyped question will result merely in a typewriting exercise from Jones on Legal Forms.

But a problem which really wakes the student up will lead him actually to work upon it. Here I have noticed a curious phenomenon. It is but another demonstration of the infinite capacity of the human brain to resist knowledge. If the problem is too easy, thought is absent and the work is mechanical; if the problem is too hard, the result is the same. What drives the poor instructor to the bootlegger is the attempt to strike a happy medium. I have found, generally speaking, that problems dealing with the simpler relationships are best. A problem in the reorganization of a corporation is less apt to be successful than a problem in the sale of goods, even a complicated sale. If that is so, the training from the latter problem is infinitely more worth while, because, if the student can draw the sale contract well, and if he can know and locate substantive law, he can also draw the reorganization agreement well.

I am also a great believer in continual variation in method. Thus, it seems desirable to shift from criticism of reported cases to drafting, and then back again. We usually start with the drafting of a simple will. Next we immediately take up a more complex form of will, and have two or three exercises in drafting burial lot provisions, charitable and spendthrift trusts, and the like. Then the students are given sample forms of wills, in which are various errors in draftsmanship, more or less concealed, usually lifted from reported cases. These wills must be corrected to proper form, and accompanied by opinions, with citations, discussing the errors.

After wills come contracts. I have usually assigned a problem in the drawing of an ordinary contract, but by that time such a problem which does not call for careful thought will be quite mechanically performed, and hence be of little value. So it seems best to require the drafting of some more intricate contract at the very beginning. Excellent results have been obtained from the redrafting of contracts appearing in decided cases. Such contracts should, if possible, be those where more than one detailed provision is necessary. Every student will see and attempt to cover the point at is-

sue in the reported case, and then, in addition, one may check up real ability by noting those who also see other possible breeders of lawsuits in the contract. Excellent cases for this purpose are *Mitchell v. Weiner*, 94 Conn. 446, where a farmer sold his entire crop of potatoes to a dealer, and *Winders v. Kenan*, 161 N. C. 628, *Corbin's Cases on Contracts*, 613, dealing with an option for the purchase of timber.

For the purpose of obtaining criticism of instruments by the class, documents in reported cases seem much more open to intelligent discussion than those prepared by members of the class. One member's comment on his associate's work is likely to degenerate into a perfunctory, "This seems pretty good," while a reported decision gives the student a start, makes him realize that the instrument is not good enough to stand up, and apparently induces a completely different attitude of mind.

Another form of problem, used with excellent results in the drafting of contracts, as well as of other instruments, is one given to the class divided into groups of four, subdivided into opposing groups of two. The fact that the students are ranged in opposition to each other provides a most effective stimulant to good work. Each group of two will represent one of the opposing parties to an instrument, and each group of four is required to draft one completed instrument which all would be willing to recommend to their respective clients for signature. A draft of such contract, together with the letter of each group to their client, explaining why the document deserves to be signed, is handed in. This has worked excellently, particularly with a problem calling for the construction of an installment coal contract between a mine operator and a city electric lighting company. With a particularly stubborn group, agreement may seem impossible; but the rule that no credit is given to any of the group unless the agreement is reached usually serves to make unnecessary the bale of hay proverbially given to the recalcitrant juror. The number of two on a side seems the most desirable number; less will detract from the in-

terest; more will cause too much delay and waste of time. Such form of problem might well be extended to three-party agreements. It cannot be employed all the while, but its use now and then brings forth some of the most effective work of the course.

From contracts we pass to deeds, and here every member of the class, whether a Connecticut man or not, must search a title in the New Haven land records. It has worked out that, when the class descends on the record office, the ordinary title searcher working for his daily bread has had to move out, and in view of the wild protests I shall have to vary the course somewhat in the future, so that not all the class will work on this problem at once. This work brings consternation to the hearts of my more landed colleagues in the faculty, for I have their titles searched and there are discovered many unexpected, and likewise non-existing, defects in their titles. This I believe to be one of the most important parts of the course. It seems very successful in actual results.

Thereafter we proceed with as many of the common instruments as we have time to consider. Problems of commercial law are always stimulating. Thus a sale of goods problem, involving delivery to a carrier and retention of title for security, is excellent, as are also problems dealing with commercial letters of credit and trust receipts. Corporation work is necessary, and I have ordinarily given much time to federal income taxation, a vitally important subject, but one which deserves a separate course. The course closes with an examination, an important and necessary chastener of the spirit. The student is by this time probably becoming a little cocksure as to his ability to meet any problem. The examination shows him that it is not so easy in a comparatively short time to draft instruments to meet strange conditions. On almost every examination appears a question calling for the use of the instrument so well known at common law for the assignment of choses in action, namely a deed of assignment plus a power of attorney to collect in the assignor's name. The scenario is changed each time; once

it was collecting a claim against the Alien Property Custodian, again it was the assignment in Connecticut of an heir's interest before his ancestor's estate was distributed, the local probate court not being permitted to recognize such assignment, and so on. The essential point of the problem is rarely clearly seen and it makes an excellent test of ingenuity, while leaving a becoming feeling of modesty in the student's breast.

In connection with the work I have found Professor Ballantine's excellent little book on the "Preparation of Contracts and Conveyances" a great help. Every student is held responsible on the examination for anything in the book, and many subjects are dismissed with simply a reference to it. Thus the matter of drafting contracts for the sale of realty is vastly important, and yet, in view of the very complete treatment of it there, I feel justified in omitting any problem upon it. It is thus possible to make the course rather complete without the problem work becoming too thin.

I find that the rules requiring work to be typewritten, on legal paper, and prepared on time, must be strictly worded and strictly construed. The tendency towards sloppy and careless work must be combated at all times. What is often thought to be a great objection, namely, the variations in law between the states, I have found of comparatively little difficulty. Only in certain cases, such as deeds, does the question arise at all, and where it does the obligation is placed upon each student to work out the problem according to the law of his own state. In view of the completeness with which Jones has covered variations in practice, it is easy for the instructor to check up such work.

What is the actual value of such a course? My own views become more pronounced as I have repeated the work each year. They may be summarized as two: First, that the course is a desirable, even a necessary, part of the law school curriculum; and, second, that the poor pedagogue who renders the course is an object for the sympathy and compassion of his professional brethren.

As to the first view, I shall immediate-

ly confess to a personal lack of sympathy with the position that it is no part of the function of the modern law school to attempt the so-called practical courses. If the function of the law school is the training of *lawyers*, it needs not only to inculcate proper habits and methods of thought, but also actually to demonstrate how such habits and methods are to be *used*. The law school does give its graduates a *head start* over the non-law school man. As the favorite Lincoln example shows, the exceptional man does not need such head start in order to achieve success. It is *possible* to get the necessary practical experience from actual practice. Yet, as the Lincoln example shows, it is also possible so to obtain the theoretical training. But since most lawyers, if not most legislators, realize that the Lincolns are the rare and not the ordinary phenomena, it is generally felt that law school training is a necessary part of the lawyer's education.

Why stop, therefore, with the job only partly done, as is admittedly the case when the practical work is omitted? The current answer is twofold: First, that this kind of training is easily, perhaps invariably, secured in actual practice; and, second, that the law school cannot efficiently give it. So far as the preparation of legal instruments is concerned, I deny both statements. Even if the training is to be secured in practice, the law school would have failed to provide that head start which it is supposed to give to its graduates. Actually the training is not secured in practice. Any search through the law reports will demonstrate that skillful legal draftsmanship is unusual. For my course I need many horrible examples of how not to act, and I have little difficulty in discovering them. One of my favorite examples is a case where a prominent lawyer, in drafting a will, through a mistake in sentence construction and in punctuation in a comparatively simple sentence, made an entire clause of the will absolutely blind in meaning, and this paved the way for a bitterly contested lawsuit. *McDermott v. Scully*, 91 Conn. 45. Even the best of lawyers make such errors.

With law teachers I doubt if this point

really needs emphasis. The real question is likely to be whether the law school can accomplish what law practice does not. It would be foolish to claim too much, but my experience has convinced me that it is possible to lead the student to begin a process of education which will probably last over a good part of his professional career. There are many shortcomings to such work in the law school, but I do believe that it is possible to make the student see that the preparation of the intricate legal document is not the mere copying of a form taken from Jones or Tiffany, but is just as much a work of legal art—a work of synthesis, as distinguished from the work of analysis of the ordinary casebook course—as is the building of a case before the jury or of an argument before an appellate tribunal. At least I comfort myself with the feeling that at the end of each year I do see germs of such results in my students.

It is to this main purpose, which may be termed the training of legal craftsmen, that I direct my chief endeavors. There are, however, several subordinate benefits to be derived from the presence of courses in the law school curriculum, which reverse the usual teaching process of analysis—tearing to pieces—for that of building up and putting together. The judge's main function may be that of analyzing his cases, but certainly that is not the lawyer's, to the extent of excluding the *making up* of his cases for ultimate exposure to the courts. It is good for the law student to get from a course such as this, and from courses on pleading and practice, the idea that he is not always or generally the judge of a case, but he is the advocate presenting a case for another to find loopholes therein, if it is possible to do so. And along this same line of thought it is hard under current teaching methods to disabuse the student of the idea that the law is divided into various insulated and isolated airtight compartments. He fails to realize that the law is a "seamless web," unless he has such an occasion as this variety of course affords to call upon all the various bits of legal knowledge he has acquired. In fact, there is here excellent training in substantive law. Lately to my surprise

I discovered a third year student innocent of any knowledge of the Rule against Perpetuities until he was called upon to draft a will. The course does furnish the student with some idea of the necessary interrelation of all law school courses in a complete whole. It is vital that the lawyer should come to an appreciation of this fact in some way, and, if he does not in law school, his appreciation will be slower, and will probably be acquired at the expense of his clients or employers.

The lot of the teacher of such a course is indeed difficult. As may well be imagined, one's hair becomes gray in the endeavor to devise problems which will provide the necessary stimulus to the imagination of the class. The classroom discussion is less likely to produce the mental fillip of a clash of intellects so often obtained in the discussion of a case. And there is finally the awful and appalling and ever-recurring prospect of written work to be corrected. One's recompense must in the main be found in whatever conviction of duty accomplished and results achieved he is able to conjure up in his mind. In some ways the results are more tangible than in other courses. The graduate immediately puts this training to use, and he appreciates it perhaps more than it deserves because he puts his finger upon the benefits of it, while the benefits of ordinary case study are more intangible. A member of my class who graduated into practice last June was by September advising all his friends to take the course, for he had just organized a corporation and obtained a good fee therefor. In his own words, it was "a cinch" after having had the course; and the beauty of it was that the case came to him from a classmate who had started the course, but had given it up on account of the work involved, and who had found the present task so far from a cinch that he had thrown up his hands. Such testimony is very common. While it is of course satisfying, yet I always feel that it is easily obtained in view of the nature of the work, and that it is not the standard by which the course should ultimately be judged. I am pleased to see the men more confident that they are pre-

pared to practice law immediately upon their admission to the bar, but I hope and pray that the course gives in some degree, at least, not only confidence but also competence.

The real problem is the one I have stressed at length, namely, to keep the student's imagination roused and alive. In spite of the various ideas I use to that end, every year towards the middle of the course, when the student has acquired an easy mechanical facility upon which he is tempted to rely entirely, I feel ready to throw up my hands. But I find that even then the student may be reclaimed by more herculean efforts. This year at this zero hour of the course, I gave out a special problem asking how the milk producers of New York City could solve their difficulty of meeting the competition of the great dealers, and suggesting a possible solution along the lines of the modern co-operative movement. The problem is difficult, perhaps too difficult, for altogether the best results. Nevertheless the actual results were heartening. The real zest of the course is here. Every once in a while the instructor rings the bell, the problem strikes home, the student's brain functions like the well-oiled machine we all hope it should be, and the resulting instrument is the delight of the lawyer's heart. Such an experience comes regularly after a period of depression, and thereupon I fold up my resignation from the course and lay it away for yet another year.

NOTE.—The following are two of the problems specifically referred to in the above paper:

I. For this problem the class is divided into groups of four. Two of each group are assigned as counsel for Edison, and the other two as counsel for the New York Illuminating Company, to prepare a contract, being given the facts as follows:

"An agreement is proposed whereby Joseph Edison, of New York, owning a coal mine in West Virginia, shall sell to the New York Illuminating Company, of New York, coal for a year. The amount of coal involved is about 75,000 gross tons, which is approximately 75 per cent. of the total output of the mine (which is known as Edison No. 1 at Preston, W. Va.). Edison prefers to sell only

a percentage of his output, thus not agreeing to deliver a certain amount, but giving the company a right of pre-emption. The price is \$5 per ton, f. o. b. Preston. Attorneys may wish to consider, *inter alia*, rate of delivery, effect of strikes, car shortage, and similar eventualities, when title passes, manner of consignment of the coal, payment, effect of failure to comply with any provision, delay in compliance, conflict of laws, arbitration, effect of rise or fall in the price of coal, etc."

The following directions are given:

"The members of each group must, of course, consult with each other, but should not consult with the members of any other group. An attempt will be made to compare the results from the various groups. In each group the counsel for the opposing interests must meet and discuss the proposed contract, until at length they prepare and agree upon an instrument for the signatures of their respective clients. A typewritten copy should be prepared for handing in, and this should be signed as approved by the counsel. Other copies of the instrument should be available for classroom discussion. In addition, counsel for each client should prepare for handing in a report to their client of the negotiations, the points which were at issue between the parties, and why they have approved the particular result reached, and why they advise their clients to sign the instrument as drafted."

II. This problem was suggested by Professor K. N. Llewellyn of the Yale Law School:

"The milk producers in the district supplying New York City have suffered from control of the marketing situation by the big milk distributors. A movement is on foot to organize the independent producers in

such a way as to have some substantial effect on the prices paid to producers. Marketing under control of a central agency controlled by the producers is regarded as essential; likewise the control of substantial output before making a beginning. The organization plans even to enter the distributing field in the city, if that should prove necessary, although no immediate move in that direction is contemplated. It is thought that the new enabling legislation in New York for co-operatives affords the proper basis for organization. It is to be expected that the big distributors will bring every effort to bear to disrupt the organization when formed, and means of keeping members in line, when once signed up, are important. This and the proposed move to increase prices to producers need attention, to keep within the law on restraint of trade. It is to be remembered that milk must be sold almost as fast as produced, and that price fluctuations are inevitable, and means must be devised to apportion the price received in fair manner. The organization's operating expenses must be provided for, and a surplus must be accumulated against possible runs of bad business. It is planned to employ marketing experts to supervise the work. On the one hand is the danger of overdemocratic control by producers ignorant of marketing; on the other, the danger that the expert may sell the organization out. The time for which the organization is to continue and the means of extending its life require consideration, among other matters. Omitting formal documents of organization, you are to draw the necessary documents to carry out the purposes herein indicated. Such instruments may therefore include articles of organization or by-laws which can be used to bind prospective members, applications for membership, and a uniform contract for producers to sign with the organization."

A Theory of Legal Education

By WILLIAM BROWNE HALE

of the Chicago Bar

[Mr. Hale has been a member of the State Board of Law Examiners of Illinois since 1920, and is now Chairman of the Committee on Legal Education of the Illinois State Bar Association and member for Illinois of the Advisory Committee on Legal Education of the American Bar Association. The following article is reprinted from the Yale Law Journal of February, 1923.]

I.

THE difference between success and failure in education depends mostly upon the character of the person be-

ing educated—whether he seeks his education or has his education thrust upon him. And no amount of change of curriculum or alteration of courses or re-

quirement for degrees will alter materially this fundamental truth. But, like everything else, the detail of college education is a matter of fashion. It is sometimes the fashion to be foolish; it is sometimes fashionable to be athletic; rarely it is fashionable to be serious. And the young men and women who are not independent enough to ignore the styles, but blindly follow them, are not bad material at all; in fact, they are the stuff out of which the great majority of mankind is made. Therefore, to govern the fashion in education, to set the style running in a new direction, or rather to give opportunity for the fashion to set itself anew, may be the making of a multitude.

We are just emerging from a period when education in its highest form has been regarded as made up of the classics; that is to say, it has been the style for the young men and women of opportunity, both in this country and abroad, to devote four years of their lives to the study of subjects which admittedly and with malice aforethought have nothing to do with any life work which any of them can reasonably undertake, unless it is to teach the same ideal mentality to others. And in this way education has ideally been very much like religion; the mind of the student has been turned back to that period of the world when men thought in terms of religion and philosophy, and dreamed dreams and saw visions and created works of art which have never been surpassed. To dwell with these men, to see their work and to understand their thoughts, to live in the atmosphere of purity in art, to lie in the gardens of the ancients and to appreciate their poetry and religion, was regarded as the ideal beginning of any young life.

The very difference between this sort of preparation and the struggle for existence was its own main advantage. If one could not in the modern world live as the ancients did much more was it important to take a few short years at the start, before the mind grew fast to the practical facts of the market, and to stimulate the imagination, so that it could always balance against the heavy burdens of re-

sponsible citizenship the calm withdrawal at the end of the day into the cool intellectual life of the classics. In this way classical education gave the most to those for whom it accomplished the least, and its greatest practical results were to train the brain and to stimulate the imagination.

It might have been all well and good, if classical education had continued to do these very things. It may well be that the complicated features of modern life are so very complex that preparation to solve them is as well obtained through the study of the classics as by intensive application to the problems themselves. It may be that one can as well lay a foundation for engineering by a study of Greek as by a study of mathematics. In other words, if the mind is trained in the beginning, and the imagination is stimulated to run in almost any direction at all, then one may perhaps go forward into life with as much hope of understanding the problems that arise and of making one's way into the intricacies of society with success as though one gave up the same period of preparation to the study of the particular trade or profession which one was to follow in after life.

But the trouble is that, for the majority, classical education failed some time ago to accomplish its purpose. It failed and still fails to train the mind or to stimulate the imagination. It failed to give to the student a liking for the classics themselves. It failed in its own very features of allurements, because in the conditions of modern times it fails to allure. A time came when students demanded a greater liberality of curriculum. They said that the study of so much Greek and Latin did not attract them, and besides it could be of no possible use to them in life. They wanted something more useful, something more modern. They did not want to turn into a kind of recluse and live with the ancients. They wanted to live in college in just the same way in which they lived out of college; to think the same thoughts; to meet the same people; to talk about the things which were discussed by others. The pressure of the outer problems became so great that these prob-

lems forced themselves into the classical atmosphere of the colleges. The colleges could no longer remain oases in the practical world around them. They were forced to become practical themselves in order to exist at all. They had to become more of the earth, because the earth had become a very much more exciting place than before the great developments of the nineteenth century; and the earth thus forced its practical way into every nook and corner of the lives of all people at all times.

And then, when classical education had thus been destroyed, the thing which was substituted was also destroyed. For, after electives were recognized, it became the fashion to regard college as a mere pretense for work, and actually a vacation, or at most a place for competitive amusements, where the goal is personal popularity so that there may be open to the student in after life those inner opportunities for advancement which cannot be had without a "pull" either in business or in society. The college authorities lost the chance of controlling the students; they failed as a criterion of power or success, because the students ceased to follow their lead and took college life mostly into their own hands. They seized the throne in a revolution which was no less important because it was noiseless, gradual, and unpremeditated.

The standards which the students have thus created give little weight to learning or to intellectual attainments, but reward athletic and family or personal distinction with a reward which is real and tangible. To get ahead in life it has become necessary to "make" some fraternity, which may depend upon family connection, or distinction in athletics, or on some college newspaper, or more or less often on careful and not too obvious political maneuverings. The faculty has little or no say in the matter, and scholarship counts as somewhat of a handicap in general, because, though there are a few, greatly admired, who combine high scholarship and social prominence, the majority must give so much attention to collateral lines that they have created a fashion of scoffing at the curriculum, a

thing which in their hearts they do not do, but which they must pretend for their own protection.

On account of these things, college men are shying away from postgraduate professional study. It is too protracted. The pressure of business and social opportunity is too great. Their fences have been built; their "pull" is fixed; their friends are on the move. Wall street or La Salle Street calls too plainly; and sisters and sweethearts file past in an alluring procession of opportunity and pleasure. The cloister is pitted against "the moiling street," and the street prevails.

Meanwhile there is going on quite another movement in education. The new Americans are beginning to be felt. The great American theory of universal public education has been their first aid. For their use a great public school system has been created, beginning with the common schools and ending in the state universities. In addition, there are the state and private professional schools, the last of which are much the most numerous of all. At these professional schools there is merely professional work. There is no time for anything else. There is no leisure for the students. They work all day at the store or office and attend professional school at night. They may get a poor education. They may find it exceedingly difficult to stride forward after they are admitted to their chosen professions; but they can gain admittance, and then their friends in the business world look out for their success. Their friends look out for their success with a vigor which is not fully appreciated by the privileged classes; and the incentive to success is so very much greater in those who enter by this route than it is in the others that they forge ahead with appalling rapidity in spite of their lack in education. They cannot in general compete with those who secure a college course and then three real years in a graduate professional school; but for all those who fail to make use of these educational opportunities, or who take only the minimum, in the belief that their "pull" will make up for their deficiencies, these new Americans are creating a terrific struggle. A royal road to the bar no

longer lies through a mere college course and the least possible study of the law.

Quite the contrary. For the demands made to-day on the professional man are far greater than ever, and in the law they lead him outside of his profession. No one who aspires to leadership at the bar can now expect success, unless he is prepared to meet the economic and social problems which arise in his practice with more intelligence than his clients. He must be prepared to try cases involving methods of finance and corporate management and industrial relations in a way which is not to be found in the legal textbooks; and he must be able to advise his clients, and to think with them and for them, in the development and management of business. In order to do this he must have a preliminary knowledge of the fundamentals of these subjects, so that the views he takes are not governed by the business fashion of the moment, or on what everybody else is said to be doing, but on his detailed study of the problem before him, in the light of his knowledge of the general principles of finance and economics and government and law gained in his education.

It is much the same in medicine and engineering and architecture, and in all the learned professions and callings. The discoveries in science, the development of transportation, the expansion of trade, the growth of the modern city, the invention of new devices of usefulness in all lines, and the greatly increased necessity for research and original ideas in every field of endeavor, put the same sort of pressure on the expert adviser and operator, whether he undertakes to design a bridge or erect a building or remove a vermiform appendix.

There have thus developed two opposing pressures from these two different directions upon the students of our colleges, which have tended to develop some of them into real leaders, to make others a failure, and to discourage the majority. From the one side comes the competition in the mere earning of a living, created by our ambitious and pushing new Americans. From the other side come the difficulties inherent in the nature of modern life.

The students have perceived these things sooner than the leaders of education. When they find themselves at the end of a glorious senior year at college, they shrink from professional life, from the necessity of so much more preparation before they can begin to struggle for their place in society, or before they can begin to realize on the place of preference which they have been making for themselves in their undergraduate days.

Look at the lists of graduates of any of our colleges, at the record of the life work which these graduates have undertaken, and see the difference between the graduates of to-day and those of twenty years ago. The proportion going into professional life of every kind has very greatly decreased. Before me is the Alumni Directory of Yale University published in 1920. It contains the latest information then available on the numbers and names and addresses and business or profession of all the living graduates of Yale College, and the information it contains may well be regarded as typical of the best American institutions of learning.

A study of this list shows that the total number of men who were living in 1920, and who graduated from Yale College in the years 1885-1894, inclusive, was 1,296; that of this number 380 were practicing law and 115 were practicing medicine. Thus for this ten-year period 1885-1894, 29 per cent. of these living graduates were practicing law in 1920 and 8.8 per cent. were practicing medicine.

The same list shows that the total number of men living in 1920 who graduated from Yale in the years 1905-1914, inclusive, was 2,931; that of this number 541 were practicing law and 129 were practicing medicine. The percentage here is 18 per cent. in law and 4.4 per cent. in medicine.

Thus, taking the ten-year period 1885-1894, inclusive, and comparing it with the ten-year period 1905-1914, inclusive, we find that the dropping off in the professions of law and medicine was from 37.8 per cent. for the prior period to 22.4 per cent. for the latter period, or from 29 per cent. to 18 per cent. among

lawyers, and from 8.8 per cent. to 4.4 per cent. for doctors of medicine.

It is true that these statistics are taken from a single college. But they correspond so closely with what appears to be the case from general observation in other colleges that it would seem safe to assume that the graduates of Yale are not deserting the professions in any greater proportion than the graduates of other colleges.

At first sight the reduction in these numbers may not seem important; but in fact it is alarming that there should not be a great increase. As the years go on, the demand for highly trained men in these professions has grown greater and greater. Such men may rise from the lowest strata of the population, but they can hardly attain distinction without a good education. Yet, as this need for broadly educated men has thus increased, college graduates have not availed themselves of their exceptional opportunity to fill the need.

Then look at the other side of the picture, from the point of view of Illinois, where statistics are available as to the profession of the law. The latest census figures show that in the state of Illinois in the year 1920 there was a total white population of 6,299,333.¹ Of this total white population 3,812,665 were twenty-one years of age and over, of whom 16.8 per cent. were naturalized immigrants.² These may in general be regarded as the lowest class in the state who can enter the profession of the law.

The Illinois State Board of Law Examiners made up statistics in January, 1922, based on their records of the last 3,200 applicants for the bar.³ This covered a period of about three years prior to 1922. Out of this total number 376 persons were born in some foreign country. In other words, 11.7 per cent. of all the applicants for the Illinois bar over a period of about three years were "naturalized immigrants," within the meaning

of the census report. Thus the percentage of naturalized immigrants studying law is almost as high as their percentage in the total population. Here at least the lowest dregs of the "melting pot" are boiling over the top. Statistics for the other learned professions in Illinois are not available. But, if anything like the same proportion should exist in any other or in all others combined, the disproportion of new Americans in the professions would be startling.

The same statistics of the Illinois Bar Examiners also show that out of a total of 1,099 persons last admitted to the bar 11.4 per cent. were born abroad, and 45 per cent. were of foreign-born parentage; and of the 3,200 applicants to the bar, above mentioned, only 15 per cent. were college graduates. It thus appears clear that the process of Americanization is working with enormous speed.

A far greater proportion of newly made citizens are entering the learned professions than is the case with those of longer American traditions; and these new citizens are coming with a minimum of educational requirements. They cannot stop for more. They earn their own living during their period of study. Their period of study is purely practical in character. They take no time for the humanities, outside of what is required in the high schools. They are not acquainted with economics. They have scarcely heard of history or science or sociology or philosophy. But they come, forced by economic necessity, ill-prepared, failing in their bar examinations again and again, struggling on, to take in general the lower positions in the game, to live cheaply and to maintain the standards of legal ethics so long as they can. All honor to their ambition! All honor to their pluck and driving energy and their courage and attainments!

But the problem remains. Where is the material for the leaders? How can the greater difficulties of business and of government be met by men without education or perspective? How can the newly made Americans express for America the true purpose of her traditions and her institutions? How can the demands of the learned professions be

¹ Fourteenth Census of the United States. Population: Illinois; Composition and Characteristics of the Population (1920) Table 1.

² Statistics compiled from same, Table 5.

³ Mimeograph issued May 26, 1922, by the Illinois State Board of Law Examiners, reprinted (1922) 5 Ill. L. Quart. 1, 12.

met, if the colleges are giving so little to the professional life of the day?

Fashion governs reason and common sense. It must continue to govern. No amount of persuasion or compulsion will be adequate to set the current carrying the students in the opposite direction. No superimposed plan of university authorities can change the fashion and fill the postgraduate professional schools. The only method which can safely be followed is to catch some idea of other tendencies which naturally set against the fashion, and yet are a part of it, and then to give opportunity for their actual development. The fashion must be given a chance to change itself.

It is in general the fashion at college to remain through senior year and to graduate. But against this runs the pressure for a practical education, which is not merely a revolt against the classical education. It is not merely a desire to think of and to study things which are familiar. It is the manifestation of a very serious purpose which is struggling to be free. It clearly exists and is recognized by the colleges in many ways: In the abandonment of the classics; in the introduction of semiprofessional studies (such as journalism) for undergraduates; in the arrangement of courses in groups which have a more or less practical meaning; in the promotion of the early selection of a career; in the more extended use of faculty advisers who interest themselves in the individual students from the point of view of their life careers; and in the privilege given to seniors to take their last year in the professional school and to count this time toward two degrees. Thus this pressure for practical things manifests a real and serious purpose, which may be recognized and availed of in all phases of the curriculum.

This is the tendency which makes an opportunity to fill the postgraduate professional schools. Since there is a pressure toward a more practical education, then let the professional school begin at an earlier year. If this is made possible, is it not reasonable to suppose that many more students than is the case at present would enter the professions, even if they

could not begin their professional careers at any earlier age? For, of course, it is not desirable to reduce the number of total college and postgraduate years to less than seven—certainly not to less than six. But the junior year could be made the beginning of a legal education, to be obtained in a really great professional school, the courses in which would not be confined to professional technicalities, but would include just as much of the broadening and collateral courses as is now possible in undergraduate and postgraduate work combined.

If this program were carried out, the student would probably be the first to recognize that it is highly desirable to transform junior and senior years at college into a period of training for the intellect in a far greater sense than is usually the case to-day. For law students at least, and probably for students of other professions, it is desirable and truly possible to bring the atmosphere of the professional school into these college years. It is possible thus to develop earlier purpose to the students' thoughts, earlier seriousness to their purpose, and greater understanding in all of their studies, without in any sense depriving them of the enlargement of their acquaintance, the establishment of their independence, or the general development of their characters.

The present waste involved in the last two years of college is proverbial. The desire to bring into college life the atmosphere of the professional school has long been regarded as an ideal greatly to be sought, but difficult, if not impossible, of attainment. For those who are content without a professional training it may remain difficult; but for professional students the solution would seem to exist in making it possible for them, though not compulsory, to enter the professional school at this earlier period, and then to combine the broadening courses of the college with the technical instruction of their chosen profession.

As part of the plan the curriculum of the law school would be greatly enlarged. Instead of training its students merely in the law, the school would recognize that history and economics and sociology,

and perhaps even philosophy and literature, are part and parcel of a legal education; and either within its own doors, or in the university of which it might be a part, the school would offer some or all of such courses to its students.

Moreover, as time went on, and the faculties of liberal arts and of the law came closer and closer into touch, the courses would be found susceptible of better arrangement and adaptation to each other, so as to make it possible for the students to find in the law the foundation stones of society, and to recognize in constitutional and political history and in the changing scenes of economic development the reasons and explanations of the changes and developments of the law.

For, in reality, these subjects, now so diversely taught and separately regarded, are but one and the same in the everyday life of every nation. As political theories change, the law follows and expands. As business enterprises take on new phases, and commerce and exchange develop varying forms and instrumentalities, the law wraps itself about them and interprets them according to the great code of ethics which forms its base and gives it life. So that any student with a true perspective and a large horizon must see his subject, not merely in volumes of decided cases and in existing statutes, but as a vast and changing scene of political, sociological, and economic life, reaching back into the past and hurrying toward the future.

A great school of law, taking its students at this earlier age, could give them this perspective. Its new and greater foundation would in itself be educational. Its traditional atmosphere of reality and of scholarship would revolutionize the spirit of college life. Its dignity and new breadth of view would capture the imagination of its scholars, so that they would hardly be recognized as the classmates of those who remain in the college. And if these should afterward come into the law school it is safe to assume that in every field they would be outstripped by the men who came in before and sooner acquired the spirit of the professional school. For the spirit is the thing; the

coming to grips with realities, when the others are dreaming; the taking hold of life with its absorbing problems, when the others look on wondering; the commencement of the voyage, when the others are merely drifting with the tide.

II.

Thomas Jefferson wrote to his cousin in the year 1790⁴ regarding the study of the law, and said that "as other branches of science, and especially history, are necessary to form a lawyer, these [the reading of certain books] must be carried on together." And the letter goes on to give a list of books that must be read, including, besides many technical law books, the following:⁵ "Locke on Government. Montesquieu's Spirit of Law. Smith's Wealth of Nations. Beccaria. Kaim's Moral Essays. Vattel's Law of Nations. Mallet's North Antiquit'. History of England in 3 volumes, folio compiled by Kennet. Ludlow's Memoirs. Burnet's History. Ld. Orery's History. Burke's George III. Robertson's Hist. of Scotl'd. Robertson's Hist. of America. Other American histories. Voltaire's Historical Works." So that these books on subjects outside the law are about the same in number on the list as the law books recommended by Jefferson. And besides these he also stated that grammar and rhetoric and literature and the poets should be read for the sake of the training and the style.

Of course, there is no one who will dispute the proposition that a broad education is essential to the well-prepared lawyer, and the course of reading recommended by Jefferson is not materially different in general scope from the combined courses obtained by the average student in his collegiate and law school days. But it is interesting to observe that Jefferson naturally treated all these subjects as "necessary to form a lawyer," and not merely as cultural subjects or subjects on which the brain may receive a training sufficient to warrant the law

⁴ Thomas Jefferson to John Garland Jefferson, June 11, 1790, 6 Works of Thomas Jefferson (Federal Ed. 1904-05) 70.

⁵ Jefferson arranged the list of books in three columns. The names quoted comprise half of the second, and all of the third, column.

school authorities in deciding that a student who had had them would be equipped as a mental machine for the study of the law. The program of Jefferson is a program of study necessary for the knowledge of the lawyer, as well as for his mental training. They become part of the man and of his professional equipment. They are demanded in his life work, as are the ordinary tools found in the laws of practice and of pleading.

It would seem that there should be no difference to-day, or, if there is a difference, it would more naturally seem to lie in the direction of a greater extension of nonlegal courses than in the direction of a contraction of study to the purely legal. And yet this drawing in of the curricula of the law schools to the strictly legal is exactly the thing that has happened; and the fact that it has happened by indirection and not with intention is beside the point.

The theory of the greatest law schools of to-day obviously is that they will take into the school only those who have had a college education and will then train them in legal reasoning. The students must begin as "bachelors" of something—it makes no difference of what, so long as they are "bachelors," and so long as they come from institutions which are recognized as excellent enough by the particular law school. By this means the law schools obtain students of some maturity, who may be said to have obtained a general education, and who will therefore probably be able to understand the principles of the law and to develop into legal reasoners. Into this material the law school crams its courses, conducted under the case system, and succeeds in a wonderful fashion in giving to most graduates minds which are highly trained in legal reasoning. The result is so far in advance of anything obtained by the older systems that it may perhaps be regarded by some as above criticism. It is nevertheless open to serious limitations in two important directions: First, it omits entirely to take into account the fact that subjects other than the law are absolutely a part of the necessary substantive material for legal training; and, secondly, it limits the study of the law

itself to legalistic reasoning, based on the theories which are found in the opinions of courts, and fails to point out to the student or to develop as an essential part of the law those pragmatic considerations on which the decisions of courts, as well as the action of Legislatures, ought to be based.

So long as the law school is not at least partly merged with the college, the first of these difficulties must continue to exist; for obviously the law school which requires a college degree for entrance cannot go behind that degree with any hope of success. To set up the requirement that every student pass an entrance examination in history or economics or other subjects would be a step in just the wrong direction. It would be highly unpopular with the students. The law school which attempted it would run the risk of complete failure. The method of entrance by examination is not in style, and it ought not to be. And even if the law school is partly merged with the college, as is here suggested, it must continue to take in those who are merely graduates, and to give to such students for years to come the same three years of steady law study which is the régime to-day. But for all those who can come earlier, and can merge their undergraduate study with the law, the school can make it possible for the extralegal subjects, which are really a part of the preparation for the bar, to become a substantive part of their training, without in any way doing away with the character of this material as broadening and cultural.

The mere act of studying to live in a college atmosphere, to pass an examination, and to forget, is not necessarily the only means of acquiring a mental horizon or of becoming a cultured person. The fact that the study of history should be regarded as a real preparation for a profession; that it should be regarded as something which a student might want to remember accurately in after life, in order to gain his daily bread; the fact that principles of economics might by the student be regarded as having some bearing on the things with which he himself will deal in his daily life; the fact that a man may face realities, instead of fan-

cies, or that he may be preparing for work instead of for theoretical cultural avocations—these things do not make for a hardened, narrow view of life. Rather the contrary. They are brought into the professional atmosphere to make it broader; to fill it up with hopes and fears, which the mere field of the law can never produce; to make of the student of the law something more than a mere legal reasoner; and to give force and direction and horizon to the lives of all those who can find the opportunity to come along this way.

It is true that four years of college must give to the life of every healthy individual some breadth of view and some idea of culture. This remains true when the college is partly merged in the professional school. The cultural feature is not lost in any case. The things that are lost to-day are the spirit of serious work for two of the college years, and the realization that such breadth of view as has been obtained applies to one's chosen profession, and is not merely an asset of leisure or of culture. Breadth of view, to be effective, must be given shape in one's activities. And so long as all the law schools continue to treat these extralegal subjects as having nothing to do with the teaching of the law, and having no direct connection with the law, just so long will their graduates fail to appreciate that their prelegal courses have substantive relation to their profession, and will therefore fail in professional life to look upon the problems which are presented and the work in which they are given a part as anything involving historical breadth of view or economic or sociological relations at all; they will continue to save their culture and their general interests for their homes, and confine their professions to the decisions of courts and the dusts of the ages.

For the things go hand in hand. The teaching of the law, and its application as well, has always been based upon theoretical considerations taken from the law itself, though the subject-matter with which it deals reaches into all the possible relations and possessions and affections of the human race. Of course the widow still weeps in court and the mur-

derer goes free—more to-day than ever before. The emotions play their parts to an extent which is more discouraging than helpful. It is not this sort of pragmatism which needs emphasis. The mistake lies in the unchanging practice of deciding all new cases simply upon previous decisions, without knowing the practical effect of such decisions upon the business or social life of the times. In everyday life the courts are developing the common law in thousands of decisions. These decisions are based on other decisions, and those in turn on others. And all these decisions are based upon what may best be described as mere legalistics, the reasoning of judges, the refinements of legal theories. The courts seldom think of consulting the historian or the trained student of economics, to find out whether their decisions are in any degree in line with the trend of the times, or whether they understand the meaning to the trade of the particular situation that is placed before them. And the law and the lawyers treat all causes in terms of legalistics, and not in terms of the general experience of mankind.

Take, for instance, an application for an injunction in a strike case. Is it not possible that the history of similar strikes has as much to do with the desirability and propriety of issuing the injunction as has the decision of the courts in similar cases? Is it not possible that a judge on the bench, asked to take action of this sort, ought to be informed as to what labor unions are, what their objects may be, other than appears on the surface, what the employers are seeking to do, and what the history of the subject shows to have been the effect of such injunctions in the past, rather than the mere fact that an injunction was issued in one case and denied in another? The answer seems obvious, and an able lawyer might furnish just this sort of information to the court, either with expert witnesses or otherwise; but nothing that is taught in most of the law schools would tend to induce or enable him to do so in the slightest way.

Legislatures, in considering new laws, have the benefit of a kind of information

which ought also to be made available to courts. The information as to proposed laws and their probable operation from experience elsewhere is constantly being presented before committees of Legislatures, and legislative reference bureaus have been established for this very purpose. But the courts, where laws are constantly being revised and applied, have little or nothing of such aids. They may be told that some court in another state has decided a certain way; but they are given nothing with respect to the actual effect of such decision. Moreover, information of this sort is not now available to the lawyer, if he desired to use it. The best trained of us have forgotten, if we ever knew, how to look up the doctrines or the history of economics in such a way as to use them in practice. The lawyer's library contains very few, if any, volumes on any subjects outside the law; and no one has taken the pains to compile information on economics or social life in such a way that the facts could readily be found if we searched for them.

But the facts exist. It is clear as the rising of the sun that leading opinions, declaring as they do new and important principles of law, have had a very appreciable effect upon the economic and social life of the times. Such effects have also been studied by sociologists and economists to some extent, and no doubt could be discovered in important cases and made available to lawyers and to judges. So that, with the effect of the thing more known than merely surmised, and with the light of many cases which never came to trial, in addition to those few which reached the stage of court opinions, the view of the court could be enlarged and clarified, technicalities could fade into the region of silliness to which they belong, and gradually the point of view of the bench and bar would change from the legalistic to the pragmatic conception of all legal problems.

If this addition of a larger field of knowledge is thus important to the practicing lawyer for the benefit of the public at large, it is to the law schools that we must look for its introduction; for even if the profession should become con-

vinced that additional information in the nature of historical experience should be added to their briefs in all cases susceptible of such treatment, the equipment of the bar to-day is insufficient to make this possible, except in a limited way. Present-day lawyers have had no education in the relation of the actual occurrences of history to the decisions of courts. The literature available to the lawyer does not include treatises of any sort which would be of direct aid in finding the historical material which ought to be presented. There are no encyclopædias of law which give any references to historical sources. The references are all to statutes or decided cases or to legal text-books. These references may lead to historical data of the greatest importance, and the opinions of courts sometimes review a series of events connected with important statutory enactments or leading decisions. But nothing of the sort can be counted on, and to the ordinary man the task of digging out the material is of so time-consuming a character as practically to preclude its use, except where the historical material is obvious or contemporary. The teaching of history and economics in the law school, ultimately in a new way to bring out their relation to the law, is thus the only method which can be depended upon to bring to the courts these new and important aids to their counsels.

It is true that the writing of a great encyclopædia of pragmatic law would be also of the greatest importance. It could safely be undertaken only on the broadest scale, and on the theory that the first edition at least would be a failure. It is difficult, if not impossible, to estimate in advance the questions involved in such a work, or the way in which it could best be presented. For there is no body of experience on which to move. The combination has never been produced. It has never been tried out in the laboratory of the classroom. Students of history have seen many references to the development of the law, and many theories advanced as to the value of this or that sort of legislation; in fact, all histories are full of changes in the law, and the accounts of popular movements which produced this or that sort of reform.

And while the reform in question has been in the air, the courts themselves have breathed its atmosphere; so that the most extreme decisions in many cases have been due entirely to the wave of popular feeling which ran high at the time and seemed to demand the heavy penalties imposed. But the development of the particular historical background to any legal proposition would require extended researches in order to make it true and dependable. For while courts have for many years continued to write with accuracy statements of the cases which have come before them, and the principles of the law which appear in these cases are all analyzed and classified and indexed and brought down in reference books through other cases, a general detailed history of the same kind of subject in experience outside of the courts has not been written.

In fact, along this line the compiler would encounter much contentious material. Historians differ over the success or failure of various important measures. Liberal schools of thought would urge that liberal legislation and liberal interpretation of it has always been a success. Advocates of labor would find little or nothing done for the benefit of labor that had not been beneficial to the state, while conservatives would be just as sure on the other side. In such a condition the courts might well desire to take refuge, as they always have, in burying their political decisions in a mass of legalistics, which are supposed to demonstrate that the decision in the hands of any others must have been the same. But this is the evil that we ought to escape. The court ought not to be able to avoid public opinion on any such flimsy theory. The truth should be known. The courts as well as the Legislatures should face the music, and frankly discuss the economic or social problems involved in terms of economics or sociology, and then take the consequences. If they demonstrate that they are believers in the capitalist theory of government, then that is no more than we knew, without their saying so, and their real reasons, brought to the light of analysis and discussion, would help to clear the air.

But it must not be assumed that the introduction of pragmatic considerations into the study and application of the law would always involve such difficulties. Hundreds of legal subjects of a noncontentious character would benefit by the addition of practical knowledge to the law. Take, for instance, the subjects of agency, of corporations, of trusts, of future interests, of mortgages, of commercial paper. In each of these a compilation of practical information on the actual operation of business men in these particular fields would be illuminating in the extreme. In connection with the law of agency, information could be compiled with the highest degree of accuracy as to the practice of the great business enterprises—how they classify their agents, what authority it has been found best in practice to give them, how they execute their authority, report to their principal, and how their relations to third parties has been worked out in practice. If this were done, it would form a running body of economic information along beside the encyclopædia, and arranged in about the same way in which the subject is treated in the encyclopædia.⁶

The same could be done with reference to corporate creation and management in a way that would be of the greatest usefulness, both in and out of court. Things which the lawyer now pretends to know about the way in which the great corporations are organized could then be known with accuracy, and with such explanation of their purpose and of their success in operation as the author could furnish. The history of the origin and development of the modern trust would also be of the greatest usefulness, and has already been written to some extent, though not in encyclopædic proportions. In spite of all the technical decisions concerning future interests, I venture to say that no serious study of their usefulness or of their use has ever been made. But much could be done along this line, and valuable information furnished to the courts for the decision of future cases. And so, with the other subjects listed

⁶ The above paraphrase of the subject of agency follows the general arrangement found in 1 A. & E. Enc. Law.

above, and with many more, the information that could be compiled without venturing into controversial fields would be very great and very useful. Some of it could be obtained within a comparatively short time, and some only with protracted research and difficult analyses.

The Law Schools can begin the program. They can begin it in a way which is not in the least degree difficult, or in the nature of any dangerous experiment. They can merely combine the study of the law with the study of history and economics and sociology, and with other cultural courses, and the experience thus gained, by the faculties thus trying to work in harmony, and trying to find the common ground in these closely allied subjects, would open the road. The students would profit by the combination of the courses in any event. They would derive real education out of what is now

their junior and senior years at college, instead of only a little culture, as at present. They would see and remember many of the great connections between the subjects, even if the instructors should fail to point them out. They would take hold of the problem as a whole, in a way that can never be possible so long as the law schools remain content in their present isolation. They would at once understand that a close connection of these subjects exists, and in their professional careers they would tend to profit by it and to develop extra-legal aids for the courts and the Legislatures wherever possible. Then, if the principle of *stare decisis* should be modified or abandoned in favor of a more pragmatic treatment of the law, it would be only after the experience of the law schools had blazed the trail and opened up the new wilderness.

The Rising Cost of Education

By HENRY SMITH PRITCHETT

President of the Carnegie Foundation for the Advancement of Teaching

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IT IS one of the anomalies of our educational situation that there are no adequate statistics. We do not even know how many colleges and universities there are, or how many students there are in them. We know only approximately the cost of the public school system, and of the colleges and universities, and we know only roughly the sources from which the support of the schools and the colleges is drawn.

Inquiries of an exact sort are now being made to ascertain the cost of the existing school system in various states, and to ascertain at the same time the sources of taxation whence the support of the school system comes, and to compile simultaneously a statement of the legal authorization for these expendi-

tures. The most far-reaching effort in this matter is being carried out by a commission, of which Professor George D. Strayer, of Columbia, is the chairman, whose object is to study in typical states and communities the existing program of public education, the extent to which this program is carried out, the present and prospective costs involved with special reference to economies and efficiency of expenditures, the relationship of educational costs to other necessary governmental expenditures, the consideration of the problem of the present and future expense of the free education program from the standpoint of the economic resources of the different sections of the country, and other allied financial problems. The funds

for this inquiry have been furnished jointly by the General Education Board, the Carnegie Corporation, the Commonwealth Fund, and the Milbank Foundation. It is the expectation that the results of this inquiry will give exact facts touching the cost of the present-day school system, the ratio of that cost to the resources of the states and communities, the sources from which the support for these systems of education is provided, and the legal requirements under which the appropriations are made.

While exact statistics are lacking, nevertheless we do know certain fundamental facts touching the cost of education which justify some consideration of the importance of the question and its significance, in advance of the analysis which accurate information will give.

From the statistics of the United States Census and those of the United States Bureau of Education we know that the expenditure for public schools—elementary and secondary—has risen from a cost of one hundred and forty

the enrollment in the elementary schools has advanced about as rapidly as the population, the growth of the attendance on the high schools and colleges has advanced at a rate several times that of the rate of growth of the population.

During the same period, the national income has likewise grown rapidly. The national income in 1890 was estimated to be about twelve billions of dollars, and in 1920 it is estimated, by the National Bureau of Economic Research, to be approximately sixty-six billions of dollars, equivalent in terms of the dollar of 1890 to about thirty-eight billions of dollars.

During the same time the burden of taxation that has fallen upon the citizens of every state of the Union has grown in an unprecedented fashion. The Report of the Special Joint Committee on Taxation and Retrenchment of the New York Legislature, submitted in March, 1922, gives the following summary of governmental expenditures in 1910-20:

GOVERNMENTAL REVENUES, 1910 AND 1920.

	1910.		1920.		Increase Per Capita.	
	Amount.	Per Capita.	Amount.	Per Capita.		
United States	\$615,996,969	\$6.70	\$5,687,712,848	\$53.80	\$47.10	703
New York state	37,905,877	4.16	115,678,480	11.14	7.17	181
Local government in New York state	218,000,000	23.92	436,500,000	42.03	18.11	76
Total		\$34.78		\$106.97	\$72.19	208

millions in 1890 to over a thousand millions in 1920. During the same period the cost of the salaries of teachers has risen from about ninety-six millions to four hundred and thirty-six millions.

During this period also the enrollment in the public elementary schools has increased from about thirteen millions to nearly twenty-two millions, an increase of some seventy per cent., while the enrollment in the public high schools has increased from two hundred thousand to more than two millions, an increase of a thousand per cent. At the same time the increase in college attendance has been likewise a striking feature of the educational growth of the three decades.

Thus, while during these thirty years

The outstanding facts seem to be these. While the population has increased between 1890 and 1920 by about two-thirds, the growth in the number of pupils attending the elementary schools increased approximately in the same proportion, but the attendance upon the high schools and the colleges grew at a rate many times faster than that of population, and that, while the national income has also grown notably in these thirty years, the burden laid upon the people of the country has enormously increased. As Professor Seligman, in his paper, "Sources of Increased Revenues for Education," states it, while the increased wealth has seemed to keep step with the increase in educational costs, "yet it is an undoubted fact that

the relative burden seems to be becoming greater rather than smaller, and that uneasiness and embarrassment are continually augmenting."

The simple fact is that municipalities and states are finding the rising cost of their educational budget a most difficult and serious problem. The question how to finance the public system of education, in the face of the other great demands made upon these communities and states, has become to-day an acute question. There can be no doubt that there is needed for its solution a statesmanlike consideration, both of the educational needs and possibilities, and of the financial difficulties and burdens.

The educational institutions of the country are facing a problem of financing somewhat akin to that through which the railroads are going. Enormous sums of money are needed to finance the railroads, if they are to carry the commerce of the country and to fulfill the function which a national system of transportation ought to fulfill. The money to finance these needs can be had, provided there are not imposed upon the railroads conditions so drastic and so unfavorable as to prevent their earning a reasonable return upon the money required to finance them.

The systems of public education—both tax-supported institutions and institutions dependent upon tuition and endowment—are likewise facing a problem of financing for which the money can be had only if it can be shown that the return which the public is to get from its school system justifies the expenditure. Hitherto the people of the United States have accepted their school system as an integral necessary part of the democratic program. They still believe in education, perhaps as fervently as ever. They are becoming, however, somewhat critical as to whether the system of education for which they are paying is justifying itself in the results which it brings forth, and as to whether the kind of education which our public institutions, both tax-supported and endowed, are advocating, makes for effectiveness, for intelligent citizenship, and for independent character to the extent that it has been assumed in the

past that it did. It is a necessary part of the financing of the schools, as it is of the railroads, to show that the educational program upon which we are embarked will deliver that which the people have the right to expect from education, considered from the standpoint of increased economic effectiveness, of quickened intelligence, and of loyal citizenship.

It is the purpose of the present memorandum to emphasize the fact that the rise in the cost of education has been largely due to the conception of education upon which our school system has been built up. No process of budget making and no ingenuity in seeking new sources of taxation for the support of education can meet the real problem of education with which the public is concerned. The cost of education in a free republic is necessarily great. A democracy ought to supply generously the funds for the support of its system of education. It needs, however, at each step to assure itself that the education which it is giving its children and youth through its tax-supported system is sincere and adapted to the training of citizens. It is entirely possible to dissipate enormous sums of money in the name of education, which serve neither to equip children with a body of knowledge, nor to train their minds, nor to instruct them as to their duties and rights under the government through which the education is furnished. The present-day system of education has reached its enormous expense, not wholly by reason of its efficiency, but partly by reason of its superficiality. No budget system and no study of costs of education will deal with this problem, unless it start first with a clear conception of what the school system can and ought to do. The way to any reform in the cost of education, if such reform be needed, lies in a clear conception of the kind of education which the people of the United States need, and what its schools can be expected to furnish.

Rising Cost of All Public Service.

We conceive of education to-day in terms of organized schools, and when we speak of the "rising cost of educa-

tion" we mean practically the increase in the cost of the operation of these school systems, embracing the various grades from the elementary school to the university. To these schools we commit education in the formal sense. Furthermore, it is also true that in most civilized countries the court of education and the responsibility for education have, more and more in the present generation, been transferred to organized schools. Much of the mental and moral discipline, formerly wrought in the home, is now expected of the school. When we speak of education with respect to a nation, we have in mind education in the organized systems of schools maintained by that nation. Education is thus a branch of public service, and this whether the schools be formally controlled by the state or supported by endowment and tuition paid by the public. Endowed schools are public institutions no less than tax-supported institutions. They form part of the system of education of our country, and are public institutions in the sense that they take part in the education of the public, are supported by the public, and in the long run are responsible to public opinion.

In the decade ending with 1920 the cost of all public service has shown an enormous increase. This is true, not only of the schools, but of every other public service, including that of government itself. The conditions that have brought about this rise are not of recent origin, and, while these conditions were accentuated by the war, the influences that made for a rise in the cost of government, and in the cost of all public and private service, were already beginning to make themselves clearly felt.

In the last century the population of the world has increased more rapidly than in any previous part of the world's history. Approximately seven hundred million people have been added to the population of the world in this century, almost doubling the population of a hundred years ago. With this great rise in the density of population there has gone on simultaneously a general

appreciation and demand for a more luxurious and comfortable form of life. The working man of to-day has, as a matter of course, luxuries in his home that the monarch could not command a century ago. The whole scale of living has risen and the demands upon the resources of the world for food, for clothing, for coal, for means of transportation, have been multiplied enormously.

Along with this demand for greater luxury and greater comfort has gone simultaneously a demand for a higher wage and for shorter hours. It is clear that, in the presence of the greatly increased population of the world, it will be necessary, on the average, to obtain a fair day's work from all human kind if the world is to be fed, and clothed, and warmed, and transported as it desires. All these tendencies were beginning to show their effects before the Great War broke. That the war itself accentuated these influences goes without saying. Enormous losses were experienced by European nations, and enormous sums were expended, for which there has been no return in the way of economic or industrial products. The man power of Europe has been cruelly decimated. The world, therefore, finds itself to-day facing a situation in which there is a highly stimulated demand for the comforts and the luxuries of life, while at the same time there is on the whole a diminished production by the individual worker, and over a large part of the most highly cultivated and industrial regions of the world bitterness and strife have displaced the ordinary processes of peaceful industry.

All these causes have tended to increase the cost of every form of public service. Government is more expensive than it was a decade ago in all countries, and the support of government absorbs an ever increasing share of the productive energy of each individual. That form of public service which has to do with education has shared in this movement. In some respects it has advanced more rapidly than other divisions of public service. For one reason and another the cost of the school, whether it

be the elementary, the secondary school, the college, or the university, has risen by leaps and bounds in the last decade, until the time has come when those who are responsible for education, whether in one field or another, must face the fact that the cost of the schools cannot be indefinitely increased. The ability of the public to support expensive forms of education has been sorely taxed. It is necessary to-day that those in charge of our agencies of education should realize that, generous as is the American public, the day is here when education must reckon with economic necessity.

In order that one may apprehend this situation and may form some judgment as to what needs to be done with respect to it, the endeavor is made in the following pages to set forth in brief form this rapid increase and the causes that have brought it about, and to suggest certain fundamental principles which must be observed if the institutions that have to do with education are to live within the reasonable ability of society to provide.

Causes for the Rise in Cost of Public Education.

Fragmentary as are the statistics which have just been presented, the essential facts which they reveal are not to be doubted. The cost of formal education to the states and the communities has grown enormously in the last three decades, and with increasing rapidity during the last decade. During this time, also, an increasing part of this expenditure has been transferred to the treasury of the United States. Before one undertakes to determine how the requisite support is to be had in the future for this ever growing cost, two things should be clearly comprehended: First, what are the reasons for this extraordinary rise? and, second, is the system of education justifying the increased expenditure by its educational results?

When one comes to consider the causes which have brought about this notable rise in the cost of education, it is necessary to consider these causes in two groups: First, those that belong to

the normal growth and progress of a great nation; and, secondly, those causes which have to do with the conception of education itself and the part that the school is to play in the social order.

The first group contains what one might call the natural factors in the educational growth of a great people. The most important of these are the following:

(1) The increase in the population and the resulting increase in the number of pupils.

(2) The increase due to educational buildings and facilities demanded in modern schools.

(3) The rise in the scale of teachers' salaries.

In the second group, no less influential in bringing about the present-day cost of education, may be placed those causes which rise out of the educational theories and strivings of our day, and which indicate a new conception of what the school ought to be and what it can accomplish for society. Among these factors the most important are the following:

(1) The widespread notion that formal education is not only the one way to advancement, but that it is also the panacea for all social and political disorders.

(2) The admission of great numbers of pupils, ill-fitted for the higher and more expensive schools, such as the high school and the college.

(3) The so-called "enrichment" of the curriculum of the schools as compared with the curriculum of two decades ago. This factor has been perhaps the most influential in the rise of the cost of public education. So great has the change of studies been between the high school of twenty years ago and the high school of to-day that the two involve fundamental differences in the conception of what the high school is for.

(4) The introduction of vocational training into the high schools, and the acceptance of the notion of scientific research as the primary object of the college teacher, have gone far to add both to the cost of equipment and to the cost of teaching. This is a part of the general process of "enrichment."

These two groups of causes need to be examined separately. The first group has to do with any development and progress of a school system. The second group arises out of the fact that the conception of what the school can and ought to do has been transformed in the three decades ending with 1920.

Normal Factors in Increased Cost of Education.

It requires no particular study to realize that in a normally growing population the cost of education itself may be expected to advance *pari passu*. More than that, any generous view of the development of the school system must expect, not only that the numerical registration of the schools will advance in proportion to the population, but that, if there is an improvement in backward regions of the country, and if the facilities for education are to be advanced, the cost of a well-developed school system of a country will show an increase larger than the corresponding increase of population. Such increases would naturally be greater in those backward regions which had made greatest progress. We find this true in the United States. The expenditures in certain of the Southern States have shown the greatest percentage of increase, because in these states a very earnest effort has been made to overcome the handicap due to backward conditions and inadequate facilities. It is therefore entirely to be expected that in a modern state the cost of an improved system for a greater number of pupils will show a rate of increase in advance of the growth in population, and this, of course, has taken place.

Aside, however, from the cost which would naturally arise from this increase in numbers and the improvement in buildings and facilities, there has come about a relatively quickened increase, due to the fact that the school generation of to-day is no longer satisfied either with the buildings or the facilities of the school generation that preceded it. From one end of the country to the other, the small community and the large community demand a better equipped

school building, better equipped laboratories, libraries, and facilities of all kinds for the instruction of pupils, than were considered sufficient twenty or even ten years ago. This general statement does not take account of certain economies which have been effected by concentration of rural schools or differentiation of city schools. The statement is one intended to cover the general trend of the educational development. It may, however, be safely assumed that a very considerable portion of the increased cost of the schools of 1920, as compared with those of 1910 and 1900, is to be found in the fact that the pupils of this day enjoy better buildings, better laboratories, and better facilities of all kinds. This expenditure is in the main justified. There are extravagant school buildings. Ambitious towns have run races with one another for high schools that vied in costliness rather than in fitness. But, on the whole, the movement for better buildings and better facilities has been for the good of education and for the advancement of the growing army of students.

The rise in the scale of teachers' salaries has not cut a large figure in the total school expenditure until within the period since the war. The item "teachers' pay" in the budgets of the high schools and "professors' salaries" in the budgets of the colleges has shown a marked increase during the whole of the last two decades, but this increase has been due mainly to the appointment of more teachers in more subjects and not to the recent rise in the individual compensation of teachers. Since the close of the Great War, during the period in which public attention was sharply directed to the high cost of living, the salaries of the teachers in the public schools, at least of the cities and towns, have had a marked increase. In the case of college professors the rise of salary has been so great as to constitute a notable circumstance in the history of the profession. Probably in no other country in the world have college salaries been raised in so short a time by so large an amount as has been the case

in the American colleges during the past three years. In the stronger colleges the typical salary has increased by something over sixty per cent. The general type of increase is illustrated by actual cases. In a small college salaries have grown from \$1,400 to \$2,000; in a moderate-sized institution, from \$2,500 to \$4,000; and in the stronger institutions from \$5,000 to \$8,000 or \$10,000. Whether these salaries are adequate or not is another question, but the salary scale of public school teachers in stronger communities and the scale of salaries of college professors have had a notable increase. It still remains true, unfortunately, that the rural school teacher has felt this advance least.

All these factors have contributed to an inevitable increase in the cost of public education. It is not to be expected or desired that the American nation should remain satisfied with a fixed school system or with school equipment that did not show reasonable advance and improvement, nor is it to be expected that the teachers in the schools and colleges should remain forever on the meager salaries of ten years ago. Least of all should they be asked to do this in the face of the rising prices which came with the world war. All of these causes unite to make a large increase in the bill which the public pays for the maintenance of its schools, an increase which it is perfectly right that the public should meet generously and fairly. How far these factors have contributed to the total increase can be told only after the analysis of school statistics and school budgets which is now being made.

Invisible Factors in Increased Cost of Public Education.

The evident and natural causes that make the cost of education in 1920 not only absolutely greater but relatively greater than in 1910 have been mentioned. They lie mainly in the growth of the population, the resulting increase in the number of pupils, the demand for better educational buildings and facilities, the increase in the number of teachers, and the rise in their salaries. Out-

side of these evident and normal reasons for the growth in the cost of education are other reasons not so evident, which have had, perhaps, more to do with the rise in cost than the primary factors just mentioned. These causes arise out of the attitude of mind of the public and of the teachers themselves.

Universal education is perhaps the most generally accepted obligation among the American people, and rightly so; but popular opinion goes much further, and assumes that education such as the schools give is not only a cure for all social and political disorders, but that such education is almost the only open door to usefulness, to happiness, and to position. The result of this popular devotion to a single form of social training is, first of all, a pressure to bring into the schools and to retain in them great numbers of pupils whose intellectual endowment is ill-suited for formal study, but who have, in many cases, marked ability for other fields of activity. The American father or mother assumes that the child must be kept in the public school, whether he can do the work or no. In no country in the world does so large a proportion of the energy of the teaching profession devote itself to the tedious task of lifting ill-prepared children and youths through courses of study from which they gain little or no good.

The overemphasis on education, and in particular on higher education, as the sole opening for the youth of the country, has not only filled the schools with ill-assorted pupils, but has closed the minds of people to the opportunities offered by agencies other than the school. For example, in the trades today there are numberless openings in which the remuneration is high and which offer a life of satisfaction and usefulness. Yet so great is the emphasis on the occupations to be reached only through high school and college that the opportunities in such trades are depreciated, and the facilities for training the youth of the country adequately for them are meager. One of the things that has enormously increased the cost of the school system is that fathers and

mothers generally believe that the opportunities in the trades and in the technical callings of civilized life are inferior to those to be had through high school and college education. By reason of this belief, few facilities for training men adequately in such callings are offered, and by reason of these two things the schools themselves are overrun by a flood of pupils, many of whom would never have been admitted under reasonable conditions, and a very large proportion of whom would find their greater happiness and their greater usefulness, as well as a more generous compensation, in an adequate, disciplined, and thorough training for some trade. Until this fact is resolutely faced, and until the schools themselves, whether tax-supported or maintained by endowment and tuitions, have the courage to refuse those who are unprepared and to point these applicants to other openings in life, there is little hope that the mounting cost of education can be stayed. What is still more serious, there will be each year turned out from the schools an increasing number of youth whose education has been superficial, insincere, and ill-adapted to an earnest and vigorous career.

This overcrowding of the schools, due to a false conception on the part of the public and to a timid attitude on the part of the school authorities, is closely related to a second cause, which has perhaps done more to increase the cost of public education than any other one factor, and this is the so-called "enrichment" of the curriculum. Twenty years ago the curriculum of the high school and of the college was comparatively simple, but so great has been the expansion of the curriculum in this interval that the high school to-day represents a different conception of what a school is for, and what it can do for society. This is the crux of the whole question as to the cost of education. If the high school curriculum is to cover all fields of knowledge and of activity, including in its scope not only the elementary training of the students in their own language and in the fundamental facts of their own history, but also all

divisions of science and of art, and if it is to offer, not only a moderate grounding in knowledge, but a technical training as well, then there is no limit to the expense which a community may be called upon to undergo in order to satisfy the ambitions of those who advocate this conception of the high school. The responsibility for this movement lies mainly with the teachers themselves.

The high school curriculum of to-day reminds one of nothing so much as the extended bill of fare that one finds in a country hotel. Upon it are printed the names of all the dishes one could hope for in the most ambitious cuisine, and yet out of all, these offerings one will find it difficult to secure a simple and wholesome meal. The high school of to-day has been transformed from a distinctively intellectual agency into one that offers instruction concerning every field of human knowledge and assumes to provide training for many vocations and professions. In the process the notions of sincerity and thoroughness in education have been displaced by the idea that education can be had by superficial knowledge of many subjects, and that training for a trade or a profession can be secured by study under teachers, themselves but ill-acquainted with the practical side of the callings which they teach. The total result is to present education, and to present technical training, as ends to be gained by superficial means. It is not too much to say that the vocational training offered in the high schools has so little of the sharp, accurate responsibility of the well-trained technician, and is so poorly related to the facts and circumstances of these vocations, that it is in great measure an educational farce. The teaching of vocations in the high schools is a mistake. These vocations should be taught through trade schools, in which the whole spirit and technique of the training partakes of the accuracy, the sharpness, and the skill that alone can give them significance.

These educational theories are those which have added most to the high cost of education. Through the exaggerated enrichment of the curriculum, not only

have numberless studies been added, but pupils have been led to believe that a superficial knowledge of many things could replace the intellectual discipline that comes from the mastery of a few things. The notion that trade school training could be made a part of general high school work has served to make soft and flabby the general conception of our people as to what kind of skill and energy are needed for the prosecution of an honorable trade. The pay of the teacher has been diluted by the bringing in of great numbers of teachers to offer this variety of studies. The rise in the cost of education has come in large measure out of a transformation of the notion as to what a school is for, and until we shall come to some definite conclusion with respect to this fundamental matter, there is no hope that the cost of the school system will stop short of the financial solvency of the various states and communities. It is perfectly clear to those who know education—its progress, its development, and its weaknesses—that the cost of education, no less than the educational result itself, depends upon the conception of what a school can do, and the answer to that question is the first step toward a decision as to whether the enrichment of the curriculum shall continue along the lines followed in the last two decades, or whether the school shall conceive of its function in a sharper and more definite sense. The right limit to the cost of the school system will be found in a sound decision as to what a school can and ought to do, and the resolute development of the school system in accordance with this decision. What the school will cost cannot be known until there is a clear understanding as to this fundamental fact.

What is a School for?

The public system of education has become strikingly alike in all lands calling themselves civilized. This fact is a notable indication of the tendency toward fixed methods. In general, two kinds of schools are provided in all countries. The first group includes the schools whose primary aim is the general train-

ing of large numbers of children and youth. This group includes the elementary school, the high school, and the college. A second group of schools, while contributing to general cultural education, has for its specific aim the training of youth in certain callings. These schools include the trade schools for the youth between fourteen and eighteen, and the university professional and technical schools that train men for various professions and technical callings, such as those of medicine, of the law, and of engineering.

The two groups of schools need to be considered separately, for they have essentially different purposes. The elementary school, which, in the United States, opens its doors to children between the ages of six and fourteen, is the great formative agency of education for the vast majority of people. The great majority of those who go to school at all receive such school training as they obtain in the elementary or grade schools. What conception does this school stand for?

A school undertakes to educate its pupils by two processes: First, by providing a child with a certain background of knowledge; and, secondly, by teaching him in this process how to use his mind. Nearly all differences in educational methods have arisen out of the difference in emphasis laid on the one or the other of these processes. It is clear that a school which stuffs a child's mind with facts alone will do little to arouse his intelligence and teach him how to use it. On the other hand, it is equally clear that, in order that the child may learn to think and to use his mind for the solution of the problems that are to arise in his subsequent life, he must have a certain background of knowledge from which to reason. The elementary school in all its history has struggled to carry on these two processes in those years of a child's life that are spent in the elementary school.

The school is therefore primarily an intellectual agency. It goes without saying that the school will have, as by-products, other training than that of the mind. Inevitably, the question of mor-

als, of manners, and of the child's attitude toward human life will be influenced by his school life, and ought to be; but these results are best attained when the school realizes its primary purpose and devotes itself vigorously to that purpose. The inculcation of high character, of sound morals, and of good manners will be most successful when the school does not lose sight of its primary reason for existence.

Admitting this conception of the purpose of the elementary school, the crucial question comes, as it does in the consideration of the high school and of the college, in deciding what studies shall constitute the background of knowledge which the child ought to acquire, and by what methods he can gain this knowledge and develop at the same time his own intellectual faculties. It is in the determination of this question that the character of the elementary school and its cost will be determined.

There are certain studies which must form a part of the intellectual background of any American child who is to discharge the duties of a citizen and to lead a useful and happy life. He must know his own language. He must have some knowledge of elementary arithmetical processes. He must know something of the government of his country and his rights and obligations as a citizen. Any background of knowledge, therefore, which the school may undertake to bring within the child's understanding must include these subjects. In this day most people would admit that this minimum must embrace some acquaintance with the processes and results of science. If this be granted, a school offering its pupils four studies, to be pursued resolutely and vigorously during the term of years that a pupil spends in it, would afford one conception of the function of the school and the method by which that function would be performed.

In contrast with this notion there has arisen another theory of education: That the child must know something of a great number of things that are going on in the world. He must be taught something of art, something of science,

something of literature, something of political economy, something of every form of knowledge in which the modern world interests itself. The far-reaching difference in the educational ideals which are presented to the country arises out of this difference in conception as to what a school can do, and as to whether the function of the school as an intellectual agency can best be carried out by the thorough study of a few things, coupled with the intellectual vigor and training which the mind of the child receives in this process, or whether a better education can be had by teaching the child something of every form of knowledge.

The first conception makes for sincerity, for thoroughness, and for intellectual vigor. The second, only too often, in the endeavor to give the child some grasp of all knowledge, gives him only the most superficial smattering, and, instead of quickening his powers of reason, tends to give him the impression that he can solve the problems of his own life and of his own country by the same superficial processes that he has learned in the school. The whole future of the elementary school, the character of the education which it can provide, and the amount that it will cost the public are involved in a decision as to whether one or the other of these conceptions shall govern in determining what shall be taught in the education of the vast majority of the people of the country.

Essentially the same question arises in the determination of what a high school is for and what a college is for. Both of these schools were intended for the cultural education of the youth. In each it is necessary that the student shall gain a certain background of knowledge, and that he shall learn, at the same time, to use his mind as a facile tool, to be turned to any problem that may arise in his social or business relations. The entire character and the scale of cost, both of the high school and of the college, will be determined when one decides whether there shall be offered in these schools, as in the elementary schools, a program of studies that shall

be simple, thorough, and representative, or whether the schools shall offer a program of studies that covers every subject, including the latest developments of science, of art, and of industry. The one plan undertakes to teach the boy or the girl exact knowledge touching a few things, but those things to be fundamental; the other undertakes to teach him something about everything, from typewriting to psychology, all of which are assumed to be equally important. To illustrate: The courses offered in high school on retail selling and advertising undertake to cover the economics of production and of retail trade, the labor question, the technical management of retail business, and the psychology of the methods by which a customer can be approached. The courses are given in a large proportion of cases to students who cannot write good idiomatic English. As a matter of technical training, it is certainly to be doubted whether this should go in the high school. As a matter of cultural education, it may well be doubted whether advertising is a field in which the American boy needs stimulation.

The so-called enrichment of the curriculum of the last two or three decades is a most natural process, and is merely the acceleration of what has been going on in education during the whole period since formal schools existed. The movement of the last half-century for a less rigid curriculum was a natural reaction against the narrowness of the classical program. That a college boy should be restricted in his studies to Latin, Greek, and mathematics was a survival of the long literary history that preceded scientific development. Man carried letters to the highest point of elegance and of precision long before the processes of science had begun to be much more than guesses. It was only after the great discoveries of the last two hundred years that science was in a position to make an equal claim for admission to the course of study of school and college. When that day came it was a foregone conclusion that there would be a struggle between the advocates of the old studies and of the new.

To-day we understand clearly that to exclude science from the schools would be blindness, but we understand also clearly that the human spirit may reach the highest intellectual training by many paths. It may be through the study of Latin and Greek. It may be through the concepts of science and the experience of the laboratory.

But whether we come to intellectual vigor by the one method or the other, we know that the goal is reached only by the path of hard work, of sincere intellectual effort, and of the mastery of some things. Neither the classical training, nor the scientific training is a specific for all minds. But we do know that, whether a child be educated through one set of studies or the other, he reaches no intellectual goal worth his effort unless he acquire in the process a moderate background of knowledge and the intellectual discipline to bend his mind resolutely to a given problem. The man who is asked whether true education lies in the study of the classics or of science is somewhat in the position of the traveler over the Gemmi Pass who inquired of an Alpine boy where Kandersteg was. "I don't know," said the boy, "but there is the road to it." There are few specifics in education, but by whatever road a child or a youth seeks education, he will find it only by the path which leads through sincerity and thoroughness. To master something well is the beginning of education. To know the English language well, to read it and speak it with precision and discrimination, to have acquired the taste for good books, constitutes a wiser background of knowledge for any American boy or girl than all the miscellaneous scraps of information that he can gather touching many fields of art and science and literature or even retail selling and advertising.

The enrichment of the curriculum was not only inevitable, but was a thoroughly sound movement. The mistake which befell the process of enrichment lay in assuming that it was to be had by indefinite additions. The sound virtues of the old and narrow curriculum were lost sight of in the anticipated glories

of the new subjects, and those who directed the school forgot that the real purpose of its existence lies, not in the knowledge of new things or of old things, but in the intellectual capacity which either the one or the other develops. Since the beginning of schools, education has always struggled between two tendencies—one the tendency to retain too rigidly a fixed and oftentimes spiritless course of studies, and the other the universal human disposition to be carried away by the new subject merely because it is new. The new thing commends itself to our universal human liking.

Perhaps in all literature there is no line more often misquoted than that which Shakespeare puts into the mouth of Ulysses, "One touch of nature makes the whole world kin." Every one has heard this appealing phrase quoted again and again as descriptive of a common feeling of sympathy that runs through all mankind. This was not what the master of literature had in mind at all. The statement of the wise Ulysses had nothing to do with human sympathy. He was pointing out, on the other hand, a universal weakness of mankind:

"One touch of nature makes the whole world kin,

That all, with one consent, praise new-born gawds,

Though they are made and moulded of things past,

And give to dust, that is a little gilt

More laud than gilt o'er-dusted."

No human agencies have suffered more from this touch of nature than our schools. What the school has to do in its effort to choose, as between a narrow content of knowledge and a sincere training of the intellect, is to see to it that the essential virtues of good teaching are preserved, whatever be the course of study which a child may undertake, and to recognize clearly that there is no school, whether elementary, high school, or college, that can teach all subjects. The school, in every age, must make its choice between those subjects that are feasible and profitable to teach and those that cannot be included

within the necessary limitations of time and study. We in the United States have been disposed to pride ourselves on the variety of the courses of study offered in our schools, but rarely can one find an American boy or girl, even among the graduates of the high school and the college, who knows his own language in any such way as the English boy, trained in the somewhat narrow classical conception, knows the language. And rarely do we find an American youth who knows his science or his language in the way a German boy is master of these subjects.

The striking characteristic of our schools under the process of enrichment of the curriculum is superficiality, coupled with tremendously rising cost. There is only one way to better the quality of the education, to diminish the cost, and to give a fair reward to the teacher. That is to adopt a conception of the elementary school, of the high school, and of the college that shall offer courses of study founded on the principle that, whatever variation of courses may be offered, it shall be always understood that the fundamental things shall be thoroughly mastered. The whole solution of the school's effectiveness and of the school's cost lies in this decision.

The question of technical and professional training, whether for the trades or for the so-called professions, is a problem distinct and separate from that of general education. These questions are of great importance. The need of schools to-day to provide training for the trades is most acutely felt, but they should be real trade schools, not weak imitations of trade education such as are generally given in American high schools.

In the same way the colleges are competing with one another in the offering of professional preparation for many fields of human endeavor which cannot be taught in college at all. Colleges in general have limited facilities, both in teachers and in facilities for teaching the practical side of many subjects they offer to teach. It can almost be said to-day that, given a sum of money, any

college or university will offer to teach any subject, however technical it be, or however dependent it is upon the experience of actual life for its comprehension. Universities vie with each other in instituting schools of business administration. The name itself is delusive. Business administration cannot be taught in an academic way, and if one examines the courses of study of these schools, they will be found generally to be made up of certain studies in economics, history, bookkeeping, and other subjects assembled from various departments of the university. They are not courses in business administration in any real sense. Nor can the presence of casual lecturers—bankers, railroad presidents, managers of industrial establishments—who come and make occasional talks, admirable as these may be, transform such a school into a school of administration.

The schools for special training form a distinct part of the educational problem, but the question with which the American people of to-day are most concerned is that general problem of education represented in the elementary school, the high school, and the college. This is pre-eminently the people's problem, and the question whether the machinery set up in these schools shall be equal to their task, or whether their cost shall be within the ability of the people to pay, will in large measure be determined by a decision as to whether they represent one or the other of the ideals as to what the school is for.

Relation of Teacher's Pay to Quality of Service He Renders to Society.

Perhaps in no one matter connected with education has the public mind been more confused in late years than by the discussion touching the scale of teachers' salaries and by the campaigns instituted before legislatures and by college alumni to increase these salaries. One distinguished publicist has stated that the problems of the country could be solved by paying college professors salaries of \$20,000 a year!

The main question involved has been

rendered less easy of grasp by the consideration of numerous minor factors. For example, it has been urged that, unless college salaries were placed upon a generous scale, college teachers would be forced to expend a large part of their time in earning money outside. This statement contains only a half truth. The fact is that the professors who earn the largest sums of money in outside occupations are the best paid professors in the country. The college professor or the public school teacher who takes outside occupation does this quite as often from the desire to have a more comfortable life as from any necessity for greater pay in order to live a modest and scholarly life. When once a man has tasted the advantages from the earnings of outside occupations, it is rare that he foregoes that pleasure, however large his college salary may become. College professors seek outside employment, not so much from the pinch of poverty, as from the desire for greater comforts, for more money to expend, for the ability to lay up sums for old age, and, above all else, from the satisfaction that they derive in dealing with extramural affairs. Sometimes the outside effort is a stimulus to scholarship. Often it is a deterrent. But no fixation of salaries at a high level is going to prevent men who are affected by these influences from earning extra compensation through outside enterprises.

As to when such outside occupation increases the teacher's public service, and when it does not, no rule can be laid down. It is certainly true that in given cases the participation in outside work has been a stimulus to the teacher and a help in his work of instruction. In still other cases, the temptation of outside work has transformed a productive teacher and investigator into an earner of money whose college work becomes secondary in importance. Some teachers forget in such cases that the reason for their employment oftentimes lies in the fact that they hold an official position. The point to be noted is that no scale of salaries can be inaugurated under which some men will not prefer

to devote part of their time to outside occupations. The process is sometimes beneficial, sometimes not. If the scale of salaries of college teachers could suddenly be raised to an average of \$20,000 a year, the problem of American education would be no nearer its solution than it is to-day.

The question as to what is a fitting compensation for a teacher in a high school or in a college is one whose solution presents as many difficulties as the effort to determine a living wage for miners or railroad shopmen. There are scholarly and able men who live their lives and bring up families on salaries of two or three thousand dollars. Some of these men become great teachers and contribute fruitful research. There are other men who receive the highest salaries paid by universities, whose work as teachers is barren and whose researches have merely sufficed to give them diversion. There is no determinable relation that would fit all classes of schools and all institutions of learning as between the salary of the teacher and the cost of a scholarly life in the community in which the teacher lives.

Teachers are human, and it is not surprising that there has arisen a new discontent among them that was scarcely known twenty years ago. Men of high education and intelligence, working as college teachers on modest salaries, have been made unhappy and in some cases embittered by the sight of men, far less intelligent than they, occupying positions in business or fiduciary relations, requiring no greater intelligence and no greater ability, but carrying a compensation many times their own scale of pay. Something of this feeling has been voiced by a few teachers.

There are two circumstances that the teacher who feels discontent is likely to overlook. One is that the men who get large salaries or large financial rewards in business are exceptional. The typical man who accepts business employment must live upon a salary less secure and smaller in the long run than the college professor's. What excites the irritation of the teacher is the success, not of the average man who goes into

business, but of the exceptionally paid man, oftentimes of his own group in the social order or from his own acquaintance, who in his judgment has less ability and power to contribute to the community than he himself. The teacher rarely stops to think that the average of the men who go into business must be content with an annual income less stable and smaller in amount than that which he receives. It is impossible in any profession to have professional security of place and an average salary on a high scale at the same time.

A second circumstance to be remembered is that such discontent as has been brought about in the United States by the comparison between the salaries of the best paid professors and the annual incomes of men who work for great corporations, or who are successful in the law or in medicine, is due in large measure to an artificial scale of salaries and one that must in time be corrected. The corporations in the United States have done much, not only to confuse the public mind as to what is a fair rate of compensation for a particular service, but they have also brought down upon themselves an unnecessary amount of ill will by an exaggerated scale of corporation salaries. It is right that the manager of a great railroad or of a great industrial plant should be paid a generous salary, but that salary should have a relation to the service which the individual is actually able to render. It should not be a mere bonus taken out of high profits, without reference to the rate of compensation which the individual himself ought to receive in proportion to all other compensation. Corporations have demoralized the whole scale of salary payments by paying large salaries to inferior men, and by paying to certain exceptional men annual sums of money that are really not salaries but gratuities out of the profits of the corporation.

It is quite true that the difference between the wise and successful conduct of a great business enterprise and its inefficient administration may make a difference of millions of dollars in the earnings of a company; but that is no

argument for paying salaries out of all proportion to the service which any individual can render, and the payment of such sums not only does not result in securing exceptional men, but it inaugurates a régime under which a mass of mediocre men receive exceptional salaries. In big business there are altogether too many cases in which a \$5,000 man receives a \$25,000 salary. The effect of a payment to the chief officer of a corporation of an exaggerated salary does not stop with his own salary. Naturally he feels under obligation to see that the men next to him are recognized as exceptional, and the vice presidents in turn pass the raise on to the managers and agents, with the result that a \$50,000 increase in the salary of a president means in two or three years some hundreds of thousands of dollars taken out of the resources of the company without any measurable increase in the effectiveness of the service. Nothing could be more wholesome in the great business organizations of the country than to adjust their salaries on the basis of what a man's service is really worth, and not on the basis of how much of a bonus can be taken out of the profits of the business.

This tendency is not confined to organizations for profit. The great insurance companies of New York, some seventeen years ago, went through a period of the sharpest criticism and reorganization on account of abuses which had crept into their methods of business. One of the indictments against them was the payment of huge salaries to their officers and of other salaries to persons who performed nominal services only. The reform that followed this investigation resulted in the payment of fitting and suitable salaries to the presidents of insurance companies. Gradually, as time went on, the old tendency for a friendly executive committee to raise salaries returned. An insurance company is not a money-making business. It is a trust operated for the benefit of its policy holders. The payment of \$125,000 to \$150,000 annually to the president of a life insurance company is not a salary. A large part of

it is a gratuity taken out of the savings of the policy holders. The duties and responsibilities of the ordinary life insurance president are not comparable with those of the presidents of the great railways, whose salaries are on a distinctly lower scale.

One objection to an inflated salary scale lies in the fact that the men who receive such salaries become so anxious to preserve their places that their courage and initiative are reduced. This has been sharply illustrated in the experience of the labor unions. Twenty years ago, labor union leaders received meager salaries compared to those of college professors. To-day they receive salaries comparable to those paid in business, and every labor leader knows that, should he lose this position, nothing like it is within his reach. The situation results in constant pressure being brought upon him to yield to this demand or that in order to hold his place.

The teacher can never hope to be paid on a scale of salary comparable to the artificial salaries paid in business. Part of his compensation comes in the security of his position, but he must find the basis of his satisfaction in the life itself. When he enters the profession of the teacher he must have as his chief motive the desire for the scholarly life, the willingness to serve, the enjoyment of books and study, and the companionship of students. If these things do not form his chief inducement, then it were far wiser to turn his attention to those fields of business in which the larger financial rewards are to be had. By all means we must increase the salaries of our teachers until they at least enable a scholar to live a dignified, simple, and wholesome family life; but any salary scale that attempts to go beyond that would appeal to a different group of men and to a different set of motives.

At this stage of our national life, when America is looked upon as the richest nation of the world, and when the temptations to extravagance in all directions of social endeavor are great, it is worth while to note what some other nations are doing with limited facilities and modest budgets. We are

inclined to think that we can do nothing in a school unless it is magnificently housed and expensively furnished. The Swiss and the Dutch schools are furnishing an extraordinary example of the admirable work that can be done in many directions despite limited facilities and modest salaries. They serve to remind us that as a matter of history and of fact the real things that make a school are its teachers and its traditions and its ideals. This is nothing new, for the history of education has given the same demonstration again and again; but for Americans of our day there is no truth so needful to realize afresh as the pre-eminent importance of men and ideals and the comparative insignificance of buildings and equipment.

Our Educational Pyramid.

The circumstances under which our school system has evolved into its present form have, curiously enough, tended to the development of several forms of cultural schools, which have been piled one on top of the other, as in no other country in the world. Education started in the United States, as in all other countries, with elementary schools for children, supported at first by private subscription, and later on by payments from the communities and states. As the country became more settled, colleges developed; but until well into the present century our colleges were little more than what we to-day know as high schools, except that the training in certain subjects, notably in the classics, was more thorough.

As the elementary schools grew in number, there gradually developed a secondary school, which we call the high school, and which was intended originally to be the "people's college," and was so called for many years. The high school, differentiating itself from the college, gave a course of study quite comparable in intellectual training, but drawn far more generally from what were considered practical studies, such as English, mathematics, the languages, and gradually courses in science. But the real purpose of the high school was to form for the common people of the

country a college, to which their sons and daughters might have access, and in which they might have an education fitting them for such vocations as they might choose to follow. The high school and the college were really parallel efforts in education, representing two different conceptions, each assumed to be adapted to those who might choose it—the college for the learned professions; the high school for the more practical callings.

As time went on the people's college came under the complete domination of the academic colleges and universities, so that, instead of being parallel institutions offering different conceptions of education, the high school became more and more a vestibule to the college, which is in large measure its function to-day, even though so scant a minority of its students go to college. As a result we have an educational pyramid of schools devoted to general training: The elementary school, which takes the child from the age of six to the age of fourteen; the high school, which takes him four years further to age eighteen; and the college, which continues this general training for still another four years, until the young man or young woman graduates at approximately the age of twenty-two. In other words, we have pyramided one institution on another until we are now offering to the American youth sixteen years of preparatory training in schools whose primary purpose is assumed to be cultural. The like of this is not to be seen in any other part of the world.

This is not all that is to be said. So great has become the differentiation of effort, whether one consider the elementary school, the secondary school, or the college, and such an enormous rôle is now played in the life of the two higher schools—the high school and the college—by activities other than those of education, notably athletics, that the young man or young woman who goes out from college at the end of sixteen years of school training rarely knows the fundamental subjects which he is supposed to have studied with anything like the thoroughness that the graduate

of the German gymnasium, or of the French lycée, or of the English public school has at the age of eighteen. To take a single instance: It would be difficult to find a graduate of our undergraduate colleges who knows his native language, who has read the books, or who has done the thinking, of the youth of eighteen who graduates from a German gymnasium, from a French lycée, or from an English public school, like Eton or Harrow. In these sixteen years the student has tasted of many dishes. He has been a guest at many tables. Rarely has he come under an inspiring and earnest teacher. He knows almost nothing of intellectual discipline, and is neither able nor in the mood to bend himself heartily and effectively to a sharp intellectual task.

No nation can continue to offer sixteen years of preparatory education to its students, of this superficial sort, and meet its needs in educational training. If the work of education were rightly done, no such time ought to be required, and no nation can afford to turn its trained men into their professions so late in life as we are coming to do. Without question four years can be dropped out of this program with advantage to the cause of education and to the interest of the people and of their children. But this change also is clearly related to that conception of education which assumes that the beginning of education lies in the sincere learning of a few things rather than in the superficial acquaintance with many. How to adjust our educational pyramid is a task of Hercules, but that which we seek in education will not be accomplished until this problem is resolutely faced.

Text-Books.

In the process by which the conception of the elementary school and of the high school has been transformed, and under which there has come about the extraordinary "enrichment" of the curriculum with its accompanying cost, the publishing and writing of text-books has played an important rôle. In no other country has the business of publishing and writing text-books become so great

a factor in determining the character of the education which the whole people are to receive.

There are forty-eight states of the Union. Education is a matter which, under the Constitution, was left to the states, and in the main has been administered by them, although there is a strong, concerted, and vigorous effort now in progress to dip into the United States treasury for the support of all types of schools. In these forty-eight states, the support of public schools, including the high school, is through taxation. The schools themselves are free to the children of every citizen, rich or poor, and in many communities the text-books that the children use are furnished free of cost.

It very quickly came about in the development of state systems of education that, where a state Legislature determined by statute the scope of study of the public schools, it could equally well designate the text-books to be used. In this process there was developed a situation under which the capitals of many states became the scene of collusion as between publishers of text-books and those in control of legislation. The opportunity for trading between the publishing houses and the Legislators was too tempting to be neglected. The furnishing of the prescribed text-books for a single state meant contracts running into millions of dollars. There is a classical story told touching a large state in the South that, the day after the signing of the contract, the edition of a specified school geography to supply the schools required an entire train. These conditions have been greatly improved, but the situation is one that will always require the careful attention of those in charge of education.

Coincident with this development of business in the publishing of text-books, there grew up an unprecedented activity in the writing of text-books by teachers, mainly in colleges and universities. The few men in educational positions who have acquired comfortable sums of money through their profession have done so from the preparation of text-books, particularly for the grade schools,

since it is in these schools that the largest number of copies are used. This activity in the production of text-books had both a good and a bad side. In many subjects, new text-books were prepared, excellent in their scope and in the method of treatment of the particular subject studied, and well adapted for the use of pupils. So far as such books were improvements on those formerly in use, they formed a contribution to the cause of education.

The harmful side of the process lay in the fact that the production of new text-books brought out by different publishing houses formed, not only a temptation to exploit the public schools in the sale of books, but, what was still more serious, this activity on the part of publishers and writers of text-books has been a notable factor in the multiplication of courses and of studies. The educational effect has been to divide all education into small parts and put each on a separate shelf, unrelated to the general mass of knowledge of which it was essentially a part. In only too many cases the new text-books, in relation to the knowledge the pupil needed to acquire, resembled nothing so much as the little bird-bath dishes that surround the plate in the diner in a country hotel. They merely put into a separate dish things which ought to have been included as part of a general study.

To illustrate: One may fairly assume that an American child cannot be fairly prepared for life and its duties without knowing something of these four subjects: The English language; civics; elementary mathematics; science. The subject of civics is, next to the English language, the field of knowledge in which the American boy most evidently needs grounding. This should include a knowledge of his country's government, of its origin and its powers, of his own rights and duties under it, of its relation to other countries, of its commerce, and of its progress.

Taught by a competent teacher, these subjects would form one study. When the boy came to learn of the government of his country and its origin, he would naturally compare it with those

of other countries. When he thought of its size and position, he would naturally compare it on the map with other countries and with other nations. When he learned something of its trade and its commerce, he would at the same time take up a comparison with similar achievements of other nations. In other words, this whole field of knowledge is really one thing, not a great number of unrelated things. When, however, in the school, he undertakes the acquirement of this knowledge, the boy will be taken through a multitude of text-books on government, economics, geography, history, commerce. Each of these subjects will be presented to him as a separate unrelated study, that neither interests him nor gives him a perspective. Geography will be unrelated to history or politics, or the economic progress of his country. What he really needs in order to make his knowledge a background for thinking is to study these subjects, not as unrelated, but as part of one subject. To teach civics in this way means an abler teacher than it will require to teach detached and separate studies, but it will require a smaller number of teachers than are necessary to teach the great number of separate and detached studies.

The enormous differentiation of our schools, which has been accentuated by the text-book publishers and the text-book writers, is a result that has come about without any particular design. Nobody had in mind deliberately to dilute the school instruction, nor to put the knowledge which the pupil is to acquire into a series of small pigeonholes, separated the one from the other. But in the actual outcome the labor of the schoolbook writer and of the schoolbook publisher has been a great factor in bringing about precisely this thing, and their influence to-day continues to be an active force in perpetuating and extending that theory which conceives of education in terms of many small doses of information administered to pupils at fixed times and in stated text-books. A reform of the school curriculum, planned to return once more to a conception of the school along simpler and more sin-

cere lines, would find itself confronted with the fact that the means of instruction provided by the text-book publishers and the text-book writers, and accepted by the authorities, are predicated upon the assumption that education can be best administered in accurately measured homœopathic doses.

Summary.

The preceding pages have sought to call the attention of those responsible for education to a situation which in a few years will become critical, if there shall be no adequate effort to deal with it. It is perfectly clear that, if the demands of the schools continue to increase at the present rate, or, as seems more probable, at an increased rate, the financial inability of society to pay the cost will in a measurable time bring about radical curtailments. In no distant day we shall see, under these conditions, free public education endangered. Under the enormous load of taxation that society carries to-day, communities will rise against the burdensome cost of public school education. Already tax-supported institutions of higher education are beginning to agitate this question, and in some cases tuition fees are being charged in tax-supported universities. The question of support of higher education rests on a different basis from that of elementary education. It may well be that the state may decide in the public interest that it will require a reasonable tuition fee for university and professional education, but it will be a serious blow to our whole program of democratic government if the free public school shall be endangered. That it will be endangered within a comparatively short time is evident, unless the cost of public education shall be brought within a limit of expense which the public can bear, and unless that education shall fulfill the primary object for which the school exists.

It has been set forth in the preceding pages that this increase in cost is due in part to justifiable and necessary causes—the increase in numbers, the better-

ment of facilities, the improvement of teachers' salaries. It has been pointed out, however, that a very large part of this rise is due to the change in the primary conception as to what the school is for and to the fact that it is no longer conceived as primarily an intellectual agency, but rather as an agency through which the child shall learn something of every form of knowledge in existence, and in which he is not only to absorb such a knowledge, but is to acquire the preparation for a trade or a profession. There has been, in the last three decades, a notable weakening in the discipline of the home. More and more the moral training of the child has been transferred from the father and mother to the slender shoulders of the woman teacher.

There is no finer picture in American life than the work which many of these teachers are doing, but they have been set a task beyond the ability and the strength of the wisest and the ablest men and women. They have been asked to take over the entire moral, intellectual, and esthetic training of the child. In the endeavor to do this, and by means of various influences which have been alluded to, education in the elementary school, instead of meaning a thorough grounding in fundamentals, means a smattering of many things, some of them important, some of them pleasant, and many of them mediocre and trivial. Intellectual discipline has been notably weakened, and the school system has come to be looked upon as the door by which every boy and girl is to enter into some kind of calling that may afford the means of making a living. The conception that the public school is an agency in which any child may be taught any subject is fundamentally unsound, and leads to expense beyond any man's ability to estimate.

As a result, the schools are overcrowded with ill-prepared pupils, who think they are going to obtain something which the school cannot give them, and whose happiness and usefulness should be found through other means. Both financial necessity and educational sincerity require that those who are re-

sponsible for public school education shall return to a feasible and educationally sound conception of the school, that they shall frankly admit what it can do and what it ought not to attempt, and that they bend their efforts to carry out those things that are feasible and necessary. Financial solvency and educational sincerity are to be found along the same path.

This reform cannot be effected in a day. The best that can be hoped is that within a reasonable time our faces may be set in this direction. Nor can this movement be brought about wholly by teachers themselves. The question of reform of public education lies in much the same situation as that of reform of the law. In the United States we have not only the national Congress, but every state Legislature, enacting statutes at a rate unprecedented in the history of the world. The law to-day is so complicated that the ablest legal minds find difficulty in tracing a right path through this maze of statutes. The administration of justice is more and more hampered

by the great burden of legal enactments and of legal machinery.

If justice and popular government are to endure, there must be found a way by which this mass of statutes and decisions may be placed in the background, the principles of justice made more clear, and the process of the administration of justice made simpler, quicker, and less expensive. This reform is advocated to-day by the ablest and most patriotic members of the bar, but it will require the co-operation of other citizens familiar with our politics and our history, and cognizant of the general nature of the law and its working, if it is to be brought within reasonable time to accomplishment. In much the same way it is greatly to be desired that educated men outside the profession of the teacher shall interest themselves in the general policy of education and in the fundamental conception under which the schools are to be operated. Without the co-operation of such men, a fundamental reform in education will be slow and tedious.

Organization of American Law Institute

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THE American Law Institute was organized at Washington, on February 23, at one of the most notable meetings in the history of the profession. Invitations had been sent by the Committee on the Establishment of a Permanent Organization for the Improvement of the Law to a list of outstanding figures of bench and bar and law schools to meet and adopt a plan for dealing with the growing uncertainty and complexity of the law. To each one so invited there had also been sent a copy of a carefully prepared preliminary report, the labor of nearly a year, on the undertaking to be considered. The response testified to the feeling of the profession that the occasion was no ordinary one, and that the

opportunity offered for rendering a great public service was unique. The character of the men who formed the Institute, representative of the best that the profession can furnish, is sufficient to launch the new movement under the most satisfactory auspices and to commend it to the intelligent consideration and approval of the public.

The objects of this organization, as stated in the by-laws, "shall be to promote the clarification and simplification of the law and its better adaptation to social needs, to secure the better administration of justice, and to encourage and carry on scholarly and scientific legal work." In other words, it aims at a restatement of the law which will be so capably done

as to commend itself as authoritative to the courts of the country. In order better to discharge its functions the Institute has been incorporated under the laws of the District of Columbia, for perpetual existence, thus giving that assurance of permanency necessary, not only to the work, but also to the creation of public confidence in its character. At the Washington meeting the council, which is to be the governing body, was chosen, by-laws were adopted after a careful consideration of certain important features, and the choice of the subjects which the Institute will take up first for simplification and restatement was practically left to the council there selected. The report of the committee which formed the basis for the discussion on this point at the meeting proposed Conflict of Laws, Corporations, and Torts.

The morning and afternoon sessions in Continental Memorial Hall were for the most part extremely business-like in character. There was discussion, of course, but it was not difficult to reach a conclusion on the points considered. Concededly the most significant thing of all was the spirit that pervaded the meeting—a spirit which caused Chairman Root, in closing the proceedings later in the afternoon, to declare that he was satisfied that “there has been no previous period in the history of the development of American institutions when such a meeting as this, held in such a spirit as has been expressed here, would have been possible.” A record of detailed proceedings can hardly do justice to the inspiration and appeal which there was in the idea that an undertaking that had floated so long in the minds of thoughtful men as a sort of unrealizable ideal was at last taking form and substance and entering on its hopeful beginnings, that a practical plan was being adopted and a definite line of action determined, and—what was equally important for ultimate success—that a start had been made toward getting behind an undertaking in which the country is so profoundly interested the force of an enlightened public opinion.

Hon. Elihu Root was chosen temporary, and afterward permanent, chairman of the meeting, on motion of Hon.

Cordenio A. Severance. He began with the statement that it was an inspiring and cheerful spectacle upon which he gazed, the spectacle of men eminent in the great profession of the law who had come from high station and leadership in practice in the various courts of our country from all parts of the Union to participate in a conference upon the improvement of the law. He continued:

“I have been requested by the committee to make a brief statement in explanation of the proceedings which bring us to the point where we are now. Most of you know that for many years we have been talking in the American Bar Association and in many State Bar Associations about the increasing complexity and confusion of the substantive law which is applied in all our states and in the federal courts. We have been talking about it. We have had committees appointed, but nothing has been done; and about a year ago a number of gentlemen interested in the subject began to consult as to whether something could not be done, and how it could be done.

“It was apparent that the confusion, the uncertainty, was growing worse from year to year. It was apparent that the vast multitude of decisions which our practitioners are obliged to consult was reaching a magnitude which made it impossible in ordinary practice to consult them. It was apparent that, whatever authority might be found for one view of the law upon any topic, other authorities could be found for a different view upon the same topic. The great number of books, the enormous amount of litigation, the struggles of the courts to avoid too strict application of the rule of stare decisis, the fact that the law had become so vast and complicated that the conditions of ordinary practice and ordinary judicial duty made it impossible to make adequate examinations—all these had tended to create a situation where the law was becoming guesswork.

“You will find in the paper which has been distributed the statement that a count made in 1917 showed 175,000 pages of reported decisions in the United States, as against 7,000 in Britain. Three years before that I had a count made in

the Library of Congress, the result of which I have often stated. It showed that during the five years preceding 1914 over 62,000 statutes had been passed and included in the printed volumes of laws in the United States, and during that same five years over 65,000 decisions of courts of last resort had been delivered and included in the printed volumes of reports. And still it goes on.

"It was evident that the time would presently come, unless something were done, when courts would be forced practically to decide cases, not upon authority, but upon the impression of the moment, and that we should ultimately come to the law of the Turkish Cadi, where a good man decides under good impulses, and a bad man decides under bad impulses, as the case may be, and that our law, as a system, would have sunk below the horizon, and the basis of our institutions would have disappeared.

"The result of the conference was, first, to consider an attempt to secure a great meeting of representatives of the bar from all over the country, and then the suggestion was made that the meeting would have nothing to do of practical effect, because they would have nothing to work on, and that they would be driven to appoint a committee to study the subject and to report upon it at a further meeting. It was also suggested that for such purpose, merely to come together and appoint a committee, it would be impossible to secure attendance from all parts of the country of the men who ought to be in such a meeting, and accordingly it was determined to constitute such a committee as everybody knew such a meeting would constitute, and let them make a thorough, exhaustive study of the subject, How can the work of restating in clear and simple terms and in authentic form the substantive law be performed?

"Accordingly, such a committee was got together. They secured funds, they employed competent and experienced assistants, and for nearly a year the work has been conducted, and the result of the work is this report, which we make to this meeting as if we had been appointed by you to make this study and report,

asking you to receive it and to consider it and act upon it.

"Copies of the report have been circulated, sent, I think, to each one of you in sufficient time for you to have an opportunity to read it, and I assume it will not be necessary to spend the day in re-reading it here. The idea of the report is that, if we can get a statement of the law so well done as to be generally acceptable, made the basis for judicial consideration, we will have accomplished at the outset a very great advance.

"We recall the part played in judicial decisions by what Judge Story said, not only in his decisions, but in his textbooks, in his writings; the part played in judicial decisions by what Chancellor Kent said in his great work. To take recent instances, take the work on Equity written by John Norton Pomeroy. I have not followed the reports closely enough to know whether it still continues, but for a good many years after the publication of that work the courts quoted what he said with practically the effect that they would have quoted a great judicial decision. There is a work now which is playing the same part, Mr. Williston's work on Contracts, which is being quoted in that same way.

"Now, if you can have the law systematically, scientifically stated, the principles stated by competent men, giving their discussions of the theory upon which their statements are based, giving a presentation and discussion of all the judicial decisions upon which their statements are based, and then such a statement can be revised and criticised and tested by a competent group of lawyers of eminence, and then when their work is done their conclusions can be submitted to the bar that we have here—if that can be done, we will have a statement of the common law of America which will be the *prima facie* basis on which judicial action will rest, and any lawyer, whose interest in litigation requires him to say that a different view of the law shall be taken, will have upon his shoulders the burden to overturn the statement.

"Instead of going back through ten thousand cases, it will have been done for him—not a conclusive presumption, but

a practical *prima facie* statement, upon which, unless it is overturned, judgment may rest. If such a thing is done, it will tend to assert itself, and to confirm itself, and to gather authority as time goes on. Of course, it cannot be final, for times are continually changing, new conditions arise, and there will have to be revision after revision; but we will have dealt with the past, and have gotten this old Man of the Sea off our shoulders in a great measure.

"It is a great work. It is a work before which any one might well become discouraged. Unless the work can be done greatly, it is worthless. It is of no use to produce another digest, another cyclopedia. That kind of work is being done admirably. It is no use to duplicate the work of the West Publishing Company, which has done so well. It must be so done as to carry authority, as to carry conviction of impartial judgment upon the most thorough scientific investigation and tested accuracy of statement.

"Can it be done? If it cannot, why, we must go on through this swamp of decisions with consequences which we cannot but dread. The great work of the Roman law had imperial power behind it. Theodosius and Justinian could command, and all the resources of a great empire responded. In the simpler and narrower work of the Code Napoléon, again, imperial will put motive power behind the enterprise. What have we? No Legislature, no Congress can command; no individual can do the work. Men who come and go, who spend a little time from their ordinary occupations, and go, cannot accomplish it.

"Means must be raised for adequate force, for continuous application. Participation in the enterprise must be deemed highly honorable. Selection for participation must be deemed to confer distinction; it must be recognized as a great and imperative public service. How can it be done? It can be done only if the public opinion of the American democracy recognizes the need of the service, and that public opinion you here to-day represent and can awaken, and direct.

"That is why the committee solicited your attendance here, to ask you wheth-

er you will put all that you represent behind the undertaking, so that the American democracy may be behind it. You will perceive that it is a simple task in statement, that it stands by itself, and that the organization required is an organization specifically adapted to this particular work.

"I have received a number of letters from friends in various parts of the country, suggesting that certain other things ought to be done, especially that there should be a reform of administration of the law; that there should be reform of criminal law. To that I agree, we all must agree. But that is another story. The American Judicature Society, a most excellent institution, is addressing itself to the subject of administration. There is a most excellent society in connection with the criminal law, which is dealing with criminal law. The trouble with the criminal law is chiefly a trouble of administration. In both branches of the law, civil and criminal, there are these existing organizations, which it is not desirable to duplicate or to substitute ourselves for; but, further than that, to deal with defects of administration, great defects, requires an organization especially adapted to that purpose, and quite a different organization from one which would be available and effective for this purpose of the scientific study and re-statement of the substantive law.

"Defects in administration have been receiving the attention of the American Bar Association and most of our State Bar Associations for many years. The trouble with reforming them comes when you run against the legislative bodies that have the power to pass the laws necessary to reform them. In my own state most thorough and excellent work has been done on the subject, and when it runs up against the Legislature there is always some little thing that the reform hitches on and fails to make progress, and the Legislature adjourns without action, and that goes on year after year.

"I busied myself for years in the Senate of the United States in trying to get through reforms in procedure that had been discussed and recommended over and over again by the American Bar As-

sociation. Quite often I would get favorable report from the Judiciary Committee; but always there was some little difficulty which prevented their being enacted into law, and the trouble is plain that the motive power behind the demand for reform is not strong enough. You get the real motive power of a people that demand reform behind the demand, and no little hitch will occur in the Legislature, either of the state or of the nation.

"But, while we are all for reform, we are mildly for reform; we don't put any beef behind it; we don't put any power behind it. Nobody is in danger of being run over by it, if he gets in the way. That is the trouble with the demands for reform of judicial procedure, civil and criminal, because almost any one in the state Legislature or the national Congress can stand in the way and stop it without danger of consequences to himself.

"Perhaps we can help. The gathering of the distinguished leaders of opinion of America here in this hall to-day will help; the making of a permanent organization to accomplish this restatement of the law, with the earnest and real interest in the subject on the part of real men, will help; and as time goes on the organization which you have made may accomplish such relations with other organizations and such additional duties, and avail itself of such opportunities, as to aid all along the line in the reform of law and the reform of procedure. But at present it seems plain that the thing to do is to form an organization adapted to this specific thing. Institutions which try to do everything do nothing. This great, difficult task will be load enough for us to carry if we can carry it.

"Gentlemen, many competent observers, many thoughtful students of history, are beginning to fear that the competency of mankind to govern is not keeping pace in its development with the ever-increasing complexity of life in this new era of universal interdependence. I have faith that our people will prove themselves equal to the ever-growing, ever-increasing demands upon them of life, of these strange new years. I have faith; but they cannot do it by lying down. No free people, no democracy—and I include

in this the American democracy—can maintain its institutions, its freedom, its justice, its opportunity for the future, unless there be general, practically universal, effort, willingness to serve, desire for knowledge, determination to grapple with and deal with the difficult problems that confront humanity.

"We may not succeed, but we can try. Here is one thing we can try. It is something the need of which is universally recognized. It is something the responsibility for which rests especially upon us. It points the pathway where we will be acknowledged the natural leaders of the democracy in its struggles towards better life, towards permanency of institutions. If we fail, who shall succeed? And if none succeed, what becomes of the law which we are, each one of us, from day to day appealing to, and demanding the application of, in the interests of our clients, what becomes of the great system of American law to which we have undertaken to devote our lives?"

At the conclusion of Chairman Root's address the report of the committee was received. Before it was taken up for discussion a member suggested that some one give them an idea of the "mechanics" of the enterprise. Mr. William Draper Lewis, secretary of the committee, replied that he thought he could answer the gentleman's question by pointing out what the committee believe are the four necessary steps to produce something that the Institute, if it is formed, can put forth as its official publication.

"The first step," he continued, "is to select a topic or topics of the law. In the report we have suggested that it would be wise to select at least three topics, but probably not more than three topics, at the start. One of the things that the committee wished out of this meeting was suggestions as to what those topics should be. * * *

"Having selected a topic, the next business of the committee, as we conceive the way in which the work should go forward, is to select what we may call a reporter, some one person who is responsible for getting before a group of experts on that subject an initial, not a complete,

statement of the topic, but responsible that drafts or parts of the topic are produced. Such a reporter will have to be an eminent person, who is thoroughly familiar with that topic. He must stand out to the country as generally recognized among the members of the legal profession as having a profound knowledge of that subject, and he must devote his time, for the time being, to that work, and he must be given the necessary assistants. No legal work can be done properly without a thorough examination of the existing authorities. Therefore that man must have, in view of the vast number of authorities, efficient assistants. Different men are differently constituted. Some men can work best when they practically have very little assistance. Others are accustomed to work, as many of you here are accustomed to operating your law offices, with a large number of assistants, and therefore whether the committee should give to this reporter a number of able men who would assist him, and the character of those men, will largely depend upon the individual characteristics of the particular reporter selected. * * *

"The third step is the selection, at the same time that a reporter is selected, of a group of experts in that subject. Those experts should also be persons who have a profound knowledge of the particular topic. They should also give a portion at least of their time systematically and regularly. They should be compensated. There should be a professional obligation for compensation given, to render systematic and regular attendance at the meetings of the committee and at work in the time in between the meetings of the committee. Those of us who have had experience with the Conference on Uniform State Laws know that one of the difficulties of the Conference is that no one is compensated, except perhaps the actual person called draftsman, who is selected. Therefore too much is left perhaps to the draftsman by the committee of experts of the Conference. That is an inevitable result, not the fault of the Conference, but the inevitable result of having a group of experts that are not com-

pensated for their work. That is the third step.

"Now, we will imagine that the reporter has presented a preliminary draft, the committee has examined that draft, has criticized it, and it is in shape to be put out as a tentative draft and distributed among the members of the Institute and among the members of the profession generally; that it then comes back with criticism to the expert committee; that the committee return it to the reporter, and that process goes on, the process of getting out a tentative draft, of having it widely discussed and criticized, and finally the expert committee have got to the point where they are willing to stand by that restatement of the law in the general form—I shall not go into that at this time—in the general form as stated in this report.

"Then comes the last step. I do not think any one who has had any experience in getting out an important piece of legal work wants to have the whole work done by experts on that particular topic of the law. I am quite sure the members of the committee do not. We believe that the last step is taking this work which has been done by the experts on that topic and putting it before a larger body, such as the members of this Institute that we are talking about, and let them go over it time and time again. When a body of experts in the Conference on Uniform State Laws have finished some one act, and they have brought it before the full body of the commission, they get back a reaction; they get ideas that come, not from the expert in that topic, but which come from an intelligent, legally trained audience. That fourth step, this so-called restatement of the law, has to come through. When you are through with that, then you are in a position to determine whether the thing that has been produced should be put out as the publication of the Institute."

The discussion which followed turned chiefly on the subjects which the Institute would take up for clarification at the outset. The report of the committee, previously referred to, proposed Conflict of Laws, Corporations, and Torts, and Mr. William Draper Lewis, the secretary of

that committee, explained that these had been suggested after very careful consideration because they offered a great variety of problems and would thus enable the Institute in its first few formative years to get as wide an experience as possible. However, suggestions as to other subjects were earnestly invited. Ex-Governor Hadley of Missouri and certain other members thereupon urged the advisability of requesting the council, or governing body, of the Institute to give prompt and careful attention to the subject of criminal law, on both substantive and procedural sides, and in case they found a restatement practicable and advisable, that they should proceed to make it.

The suggestion was opposed by others, either on the ground that they did not understand that the Institute was forming for the purpose of dealing with criminal law, or because they did not think it advisable at the outset to cumber the council and the men who were to do the actual work with too many suggestions. The subject of Contracts was also suggested, and it was argued by another member that Corporations, being largely a matter of statute and a subject as to which the text-books had constantly to be revised, was perhaps a trifle too difficult for the Institute to undertake in the beginning. The freest range of discussion was allowed, and in the end the proposals of the committee as to subjects were left unchanged. The chairman took occasion, however, to state that this did not prevent the council from taking up the subjects suggested, in case it desired to do so.

The by-laws were carefully considered and the tentative draft was amended in some respects in order to perfect an organization calculated to secure the confidence of the public. With this object in view, on motion of Judge Dickinson of Chicago, it was provided that members of the council, which is to be the governing body, should be elected by the members of the Institute, instead of making the council self-perpetuating, as had been suggested. The council, however, was given the power to choose members and fill vacancies until the next annual meet-

ing. Members are to serve for nine years, but the first council is to divide itself by lot into three classes, to serve respectively three, six, and nine years, in order to insure a continuity of experience.

The first council chosen consisted of twenty-one members, but they were authorized to select additional members until the next annual meeting, with the proviso that the total membership of the body must not exceed thirty-three. The officers are to be chosen by the council and will hold for one year or until their successors are elected. They will be a president, vice president, treasurer, and secretary, each having the powers and duties incident to such offices. No member of the council, while serving in that capacity, shall receive any compensation from the Institute. The council was authorized to appoint an executive committee and delegate such powers as it deems proper. Meetings are to be annual. They may be called by the council on three weeks' notice, and shall be called on a written request of fifty members. Fifty members shall constitute a quorum and a majority of the members voting on the question at the annual meeting may amend the by-laws.

The members of the Institute will be those whose names appear on the roll of the Washington meeting on the invitation of the Committee on the Establishment of a Permanent Organization for the Improvement of the Law; the members of the council and any other persons elected by the council or the Institute; during the continuance of their respective offices, the Chief Justice and the Associate Justices of the Supreme Court of the United States, the senior judge of each Circuit Court of Appeals, the Attorney General and the Solicitor General of the United States, the Chief Justice of the highest court of each state, the president of the American Bar Association and the members of its executive committee, the president of each state bar association, the president of the American Institute of Criminal Law and Criminology, the president of the American Branch of the International Law Association, the president of the

American Judicature Association, and the president of the Commissioners on Uniform State Laws.

The resolution approving the formation of the American Law Institute was offered by Mr. George W. Wickersham and unanimously adopted. After this the meeting approved a form of certificate of incorporation and by-laws also presented by Mr. Wickersham, who briefly explained that it was drawn under the laws of the District of Columbia, provided for perpetual existence and set forth the objects of the organization as they had been previously stated. A committee on nominations proposed the following twenty-one members of the first council, and the meeting unanimously elected them: Elihu Root, George W. Wickersham, Learned Hand, Victor Morawetz, John G. Milburn, George Wellwood Murray, Harlan F. Stone, Benjamin N. Cardozo, John W. Davis, William Draper Lewis, George E. Alter, Alexander King, Andrew J. Montague, Emmett N. Parker, James P. Hall, William B. Hale, Edward J. McCutcheon, Arthur P. Rugg, Samuel Williston, Cordenio A. Severance, Herbert S. Hadley. The council thus elected was, on motion of Mr. Wickersham, unanimously adopted, "directed to call for further criticism of the plan outlined in the report of the Committee for the Establishment of a Permanent Organization for the Improvement of the Law, to call for suggestions as to the scope of the project and the mode of carrying it out, and to hold hearings if desired by any member of the Institute present at this meeting or hereafter becoming a member."

While the committee on nominations was conferring, Chairman Root took occasion to answer a question that had been asked as to plans for financing the enterprise. He stated that this was a very appropriate question and one that had doubtless occurred to many members. "The volunteer committee that started this matter," he continued, "realized that it would cost a good deal of money to go on with the work. They realized that the work cannot be done

by casual dipping in of busy men out of the hours of their ordinary business, that able and competent men have got to be employed and paid to devote their time to the work, in the first instance.

"They realized also that it was impossible to secure funds for any great enterprise so long as it was vague and problematical, and that it was necessary to carry it to such a point that persons appealed to to contribute would see that there was a real movement, with real power behind it, and a reasonable certainty of its going on and doing work. And they felt confident that if this body which has been called together here would put itself behind the undertaking, they could then go to the same sources which have endowed the colleges and the hospitals, and all the great public institutions supported by private contributions, the same sources that supply the money for Eastern Relief and the Red Cross, and be certain that a great public work having public recognition and needing only to be supplied with means to carry it on would meet with a response.

"Of course, if the money cannot be raised to pay the expenses, the undertaking will fail. Equally, of course, if this body is to be behind the work, the money will be obtained."

A banquet was held in the evening at the New Willard, at which Chief Justice Taft presided as toastmaster. Ex-governor Hadley made a very illuminating address on the work accomplished under Justinian and on the preparation of the Code Napoléon. President John W. Davis of the American Bar Association spoke briefly on the newly formed Institute and the aid which the American Bar Association can furnish.

At the meeting of the Council on February 24, Hon. Elihu Root was elected honorary president of the Institute and Hon. George W. Wickersham, president. Judge Benjamin Cardozo, of New York, was chosen vice president, William Draper Lewis, of Philadelphia, secretary, and George W. Murray, of New York, treasurer.

Notes and Personals

The following report has been received from Dean Kimbrough of the University of Mississippi School of Law:

Judge J. B. Holden, President of the Mississippi State Bar Association, and Associate Justice of the Mississippi Supreme Court, delivered two able lectures to the School of Law November 14th. The first lecture dealt with important facts to be observed in the conduct of a case from the lower to the higher court of the land. The second lecture was a discussion from a legal standpoint of the trial of Christ; an appeal for the young lawyer to stand for law and order, as opposed to mob law.

Three issues of the Mississippi Law Review, a publication gotten out by the members of the Blackstone Club, are before the public. The Club is pleased with the reception the Review has been given by the lawyers of the state, and the press generally. It will be a link between the lawyers of the state and the School of Law.

The enrollment in the Law School has reached the eighty mark. This is the second year the school has operated under the three-year program, and for this reason there will be no graduates from the three-year class. Three or four men will graduate, having commenced their work under the old two-year schedule.

Prof. Horack, of the Iowa University School of Law, was at the University the first of December looking over the Law School preparatory to the Association of American Law Schools passing on the application of School of Law for membership.

General Hemingway, of the Law School, was voted by the student body as being the most useful man in the University. The School of Law hopes with such men to make this the greatest School of Law in this section of the South.

♦ ♦ ♦

The following interesting bulletin was recently issued from the University of Iowa:

THE LAW CLINIC.

A Distinctive Plan of the University of Iowa to Promote More Effective Legal Training.

A serious criticism of American law schools has been that they do not train students as effectively as they might to apply their legal knowledge to the concrete problems which will later confront them in every-day practice. Those who hold these views suggest, for example, that in the law school the student's head may be crammed with principles of real property law, wills, equity, etc., but that on graduation he is still unable without assistance to examine an abstract of title. These critics also say that, although the law graduate may know

thoroughly the principles of the law of private corporations, he is usually incompetent, by himself, to carry through the organization of even the simplest corporation. Phrased in other words, law schools are charged with having confined their attention almost exclusively to fundamental training in legal principles to the neglect of the mechanics of practice and the art of advocacy, and have been as conservative as the law and the legal profession itself in failing to meet the needs which have been created by new fields of legal endeavor and the decadency of the law office as a place for training students.

These critics also point out that the same situation existed in medical education a quarter of a century ago, when medical graduates were sent out to practice medicine without adequate training and experience, but that clinical experience and internships have remedied this deficiency. The inquiry which naturally follows is: Why can't law schools likewise give their students such training in the legal field as to prepare them more adequately for practice?

How Iowa Proposes to Solve This Problem.

This criticism has not been directed at any particular school and is less applicable to the College of Law of the University of Iowa than to most other law schools. The charge is against legal education in general. At Iowa courses in Iowa Practice and Procedure, in the Administration of Decedents' Estates, in Brief Making, and the Practice Court have placed the College of Law in the forefront in instruction in the mechanics of practice and the art of advocacy. It is now proposed to extend this line of training further. To this end members of the bench and bar who have had special experience in particular lines, and who believe in the development of this phase of legal education, have agreed to give generously of their time during the Summer Session of 1923 to assist the law faculty in a thorough practical demonstration of the possibilities of such instruction.

Who May Benefit.

This work is aimed to serve, primarily, members of the bar, law graduates, and third-year law students. The courses to be given will cover the work which the young lawyer ordinarily will meet first and oftenest in practice. The aim is to offer clinical instruction which will enable the young practitioner to do skillfully and efficiently work in which he sometimes becomes proficient only after months or years of experimenting, at the expense of clients and associates.

Method of Instruction.

The methods will be clinical so far as possible. Each course will be devoted to the consideration and actual solution of problems. For example, in the course in Examination of Abstracts of Title actual abstracts will be examined and opinions of title written. The systems of records at the various county recorders' offices in Iowa are sufficiently uniform to enable typical illustrative work for the entire state to be done at the Iowa City courthouse.

In the course in Organization and Management of Corporations the work will be practical problem work and will involve the doing of the very things required in the organization and legal management of a typical private corporation. It will include not only organization

work, but also holding the various organization, directors' and stockholders' meetings, writing their minutes, issuing bonds, debentures, preferred stock, increasing capital stock, re-organization, etc.

The course in Income and Inheritance Taxation will involve the solution of typical problems of income and inheritance taxation and making out the necessary returns. Here again the problems considered will be those which most often come to the lawyer's desk, and the treatment will be from the lawyer's rather than the accountant's or business man's point of view.

The series of lectures by the Attorney General will deal with the specific problems which county attorneys meet in impaneling grand juries, presenting evidence, drafting indictments, trying criminal cases, and preparing cases on appeal.

Similar concrete methods will be followed in other courses.

Instructional Staff.

The men engaged to give courses dealing most intimately with practice and advocacy are lawyers who have had special experience in the particular subjects treated. One handles the title work of a trust company and of a large insurance company. Another has done a great deal of corporate promotion work, sometimes alone and sometimes in association with men of the widest experience in these lines. A third is a specialist in income and inheritance taxation, with a background of several years of government employment in income tax work before he was admitted to the bar.

Special Lectures.

In addition to the regular courses there will be several series of lectures given by distinguished members of the Iowa bench and bar. These should be of great interest to members of the bar as well as to law students.

Judge F. F. Faville, of the Supreme Court of Iowa, will give a series of talks on Iowa Appellate Procedure in which special attention will be given to the mistakes most commonly made by members of the bar in presenting cases on appeal.

Judge Martin J. Wade, of the United States District Court for the Southern District of Iowa, will give several lectures on Federal Procedure. The increasing amount of litigation in the federal courts makes this topic of unusual value to members of the bar.

The Honorable Ben J. Gibson, Attorney General of Iowa, will give a series of talks on phases of criminal procedure of greatest importance to county attorneys. Arrangements are being made for a special conference of county attorneys to be held at the College of Law under the direction of the Attorney General.

William M. Chamberlain, Esq., of the Cedar Rapids Bar, one of the most distinguished corporation lawyers of the Middle West, will give a series of talks based on his experience in the organization and management of corporations. This series will supplement the regular courses in Organization and Management of Corporations and will be of great value to members of the bar as well as to law students.

Substantive Courses.

In addition to the problem courses in practice, intended primarily for law graduates and members of the bar, several substantive law courses will be offered for students who have had one year or two years of law study. The course in Examination of Abstracts of Title will also be open to students who have completed two years of law study.



The New York Times of February 18, 1923, contained the following announcement of the

appointment of two British lecturers in the Law School of the University of Columbia:

Appointments of British scholars to lecture-ships in the Law School were announced yesterday by the trustees of Columbia University. William Renwick Riddell, Justice of the Supreme Court of Ontario, was named Blumenthal Lecturer for the spring session. Sir Paul Vinogradof, Corpus Professor of Jurisprudence at Oxford University, will be Carpentier Lecturer for 1923-24.

Justice Riddell has been honored with the highest degrees of many of the leading universities of Canada, Great Britain, and the United States. He has been elected to honorary membership in the State Bar Associations of a number of states. He will conduct a series of lecture conferences at Columbia. He has lectured and written much on legal and other topics. Among his publications are "The Courts and the People," "Legal Profession in Upper Canada," "The First Law Report in Upper Canada," "The Constitution of Canada," "The Slave in Canada," and "Old Provincial Tales."

Professor Vinogradof has received degrees from Oxford, Durham, Cambridge, Harvard, Liverpool and Calcutta. While he was a professor in Moscow he founded the Moscow Pedagogical Society and acted as Chairman of the Educational Committee.

Professor Vinogradof has written and lectured much. Among his publications are "Villeinage in England," "The Growth of the Manor," "English Society in the Eleventh Century," "Roman Law in Medieval Europe," "Common Sense in Law," "Self-Government in Russia," "Outlines of Historical Jurisprudence," "The Rise of Feudalism in Lombard Italy," and "Inquiries in the Social History of England." He will conduct a series of lecture conferences during the winter session of the next academic year.

The Carpentier Fund was established through the gift of the late General H. W. Carpentier, of the class of '48, in memory of his brother, James S. Carpentier. Among the Carpentier lecturers have been Viscount Bryce, former British Ambassador to the United States; Arthur Lionel Smith of Balliol College, Oxford; Professor John C. Gray, of Harvard; David Jayne Hill, former Ambassador at Berlin; Sir Frederick Pollock; Sir Courtenay Ilbert; Harold Hazeltine, of Cambridge University; and Willard Barbour of Yale.



An interesting notice of a suit by four Harvard Law School professors was contained in the Boston Evening Transcript of April 7th, 1923. The notice reads as follows:

Four Harvard Law School professors have brought suit in the court at East Cambridge against three Cambridge men, seeking an injunction to prevent the defendants from selling notes of lectures and plans of instruction in the courses offered by the professors. The plaintiffs, who are Professors Joseph Henry Beale, Edward H. Warren, Samuel Williston, and Austin W. Scott, also would compel the defendants to deliver up for destruction all notes of lectures and means for reproducing them, and to pay over to the professors all profits which are claimed to have been wrongfully obtained. The defendants are Henry Tucker Lawrence, George Davis Chase, and Thomas H. Hynes.

The professors in their bill of complaint set forth that they conduct courses in the Law School open only to students who pay tuition. The salaries of the faculty, it is said, are largely dependent upon such tuition. There has been at all times, it is stated, an agreement between professors and the Law School that the lectures given and plans of instruction followed shall re-

main the private property of the professors. The lectures and plans of instruction, they say, are their own literary contributions, and have never been printed or dedicated to the public.

The notes, it is alleged, were obtained several years ago by one or more students, who had them typewritten. Later they came into posses-

sion of the defendants. It is claimed that possession of the notes defeats the purpose of the professors to develop original thought on the part of the students. It enables unprepared students to "crib," and makes examinations an unreliable indication of their grasp of the subject.

The American Law School Review

An Intercollegiate Law Journal

S. E. Turner, Editor

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No. 4

The Teaching of Law in Schools of Business

By WILLIAM E. BRITTON

Professor of Law, Indiana University and Instructor on Business Law in the School of Commerce and Finance, Indiana University. Author of Britton and Bauers Cases on Business Law in collaboration with R. S. Bauer of the University of Illinois.

COLLEGES of commerce and schools of business administration exist for the purpose of giving scientific training in the organization, operation, and administration of business enterprises. Such institutions seek to equip their students for successful careers in business. The inclusion of a particular course in any one of the various business curriculums is justified if, without sacrificing something of greater value, the study of the course offered will contribute substantially toward the attainment of the general object. While the study of law in schools of business administration is one of lesser importance, almost without exception it occupies a place in the curriculum of such institutions. Inquiries recently sent out brought replies from 98 universities and colleges which offer some work in law in their business curriculums. Whatever the ends sought to be accomplished by the study of law in schools of business may be, it is apparent that those who are now charged with the administration of such schools are generally agreed that some training in law is desirable.

The main object of a law course in a school of business is a practical one. The

training there obtained by the business student ought to be reflected by the assets side of the balance sheet of the business with which in later years he will be associated. The ultimate gain in such study ought to enable the future business man to avoid a good deal of unnecessary litigation. It ought also to equip him with the means of making an intelligent selection of legal devices as his business problems arise. Two or three courses in law will never make a business man, his own lawyer, but some study of the law will aid him in deciding when it is reasonably safe to take a chance on a course of conduct without the aid of counsel. In a case where his judgment tells him that it is unsafe to take the chance, his acquaintance with the workings of legal principles ought to inform him that, on the whole, it is cheaper and safer to obtain a carefully drawn legal map before starting on a business journey than it is to employ a guide or a mechanic after getting lost or damaged en route. There are other worthy objects of law study in commerce schools, but they are subordinate to the practical one.

Should the law course or courses be

elective or required? Both policies now obtain. From the data available to the writer, the schools appear to be about equally divided. There is, perhaps, no great virtue in uniformity in this matter. The policy to be adopted in a particular school will, no doubt, in many cases be controlled by the local situation—the number of curriculums offered, the number of students, the number of instructors who can be had for this work, the specific objects of the school, and its general policy with respect to the elective system. In any event, the question can be satisfactorily answered only by those directly charged with the duties of administration of the particular school. It is altogether possible that in the same institution the law course may properly be required of students registered in certain curriculums and elective for other students. Where more than one course is offered, the first is sometimes required, and the additional courses made elective.

There is considerable variation in the number of hours of law work given in schools of business administration. They vary from one to three terms, and from one to four semesters' work. In the number of class periods per week the variation is from one to six. The following data are taken from the replies to inquiries sent to 98 schools.¹ For this purpose a semester is regarded as 15 weeks and a term as 10 weeks. A 3-hour course for two semesters, or for three terms, would then be 90 hours of classroom work. Thirty schools report 90 hours; 18 schools, 45 hours; 15 schools, 60 hours; 9 schools, 120 hours; 6 schools, 180 hours; 4 schools, 144 hours; 3 schools, 240 hours; 3 schools, 360 hours; 3 schools, 30 hours; 2 schools, 135 hours, 2 schools, 396 hours; 2 schools, 450 hours; 1 school, 640 hours. Where more than 120 hours is reported, usually more than one course is offered. It appears, therefore, that about one-third of these business schools offer work in law for 3 hours per week, for a school year, or the equivalent. Approximately another one-third of the schools offer from

one-third to one-half less than 90 hours of work, and of the remaining one-third of these schools, about one-half give about one-third more than 90 hours; the other one-half offering from three to five times this amount. There is no marked indication of intention on the part of those in charge of such work in these schools either to increase or decrease the amount of work now being given. It is altogether probable that a one semester course, or two quarters, totaling less than 90 hours of work, in law, is very much worth while; but it appears that the majority of schools are acting upon the assumption that 90 hours of work is the minimum. For that group of business students who expect to become certified public accountants, there is an additional reason for requiring 90 hours as a minimum.

With respect to prerequisites for admission, a few schools admit students in the freshman or sophomore years; but, from the information available from 30 schools, a majority of them require at least junior standing. In some cases certain specific commerce courses are prerequisites.

The subject-matter of the courses varies somewhat, but substantially all schools treat the so-called commercial courses: Contracts, agency, sales, negotiable instruments, partnership, and corporations. Even among schools which list these subjects, there is some indication that briefer references are made to such allied topics as bailments and carriers, suretyship, insurance, bankruptcy, and the like. Some schools, either by increasing the number of hours of work devoted to law study, or by decreasing the time spent on the commercial branches, are giving consideration, on a parity with commercial topics, to the tort and property fields, and to the subject of governmental regulation of business as worked out in legislation. Judging from existing policies, it is at this point where one of the more important problems connected with the teaching of law to business students has developed. Some schools have adopted the policy of limiting the student's study to the contract field in its general and special

¹ The writer is indebted to Mr. S. E. Turner for his careful compilation of much of the data relied upon by him in this paper.

aspects, and to the study of the legal characteristics of the form of the business entity. Other schools give equal consideration to the tort and property subjects and to statutory regulations of business. For the former policy it may be urged that it is better to give the student a more thorough grounding in a few fundamental courses than it is to spend the same amount of time upon a greater number of equally fundamental topics. On the other hand, it is possible to urge that what a student loses by studying a greater number of subjects is compensated for by his more complete understanding of the entire field of the law generally. The solution of this problem in a particular institution will depend in great measure upon the amount of time which, as a practical matter, is available for this work. If a year's work, consisting of 3 hours per week, is the maximum which may be had, there is considerable doubt as to the desirability of attempting to open up the tort, property, and legislative fields, except in so far as such matters naturally drift into the daily classroom discussions. Even if 4 hours per week is available for law, it is believed that the contract field, in its general and special phases, and the law of business associations, are of sufficient importance to justify the spending of the entire time on these courses.

The question as to whether more than 4 hours work per week for one year in law should be offered is essentially a question of the relative value of this work, compared with other courses to be had in the school of business or in the college of arts and sciences. For the general business student, one who is not registered in any specialized business curriculum, it is doubtful whether his gain in this respect would offset his loss sustained by giving up other work in the school of commerce or the college of arts and sciences. But for the business student, who is registered in a specialized business curriculum, it is much easier to make out a case for his further law study. A student registered in the curriculum in insurance might well be offered an elective course in the law of insurance. The curriculum in public utilities might in-

clude a course in the law of public service companies. The curriculum in transportation might offer a course in interstate commerce law. A student enrolled in the curriculum of banking might be permitted to take work incorporating material selected from the law relating to securities, wills, the administration of trusts and the estates of decedents. The legal aspects of labor problems would furnish another specialized law course for those chiefly interested in this field. In other words, after a student has had some law work, regarded as more or less basic, there are two possible policies of expansion. Additional law courses, designed to introduce the student to a greater portion of the body of the law, having much the same content as that found in the law school curriculum, but in a more abbreviated form; or the business student, particularly one who is specializing, may do more intensive work in the law which peculiarly affects his business. Even here specialized law courses in the various specialized business curriculums are not equally important. Moreover, any proposal to increase the law work must compete with like proposals of expansion from other equally or more important departments. Finally, the question as to how much law should be given is certain to be affected by the character and aims of the particular school.

Where the school of commerce is a part of a university which also maintains a school of law, should the law courses be offered by the school of commerce or by the law school? This is largely a question of administration. In a few schools the courses are given by members of the law faculty, who also conduct courses in the professional law school curriculum. In most schools, however, the courses are given by members of the faculty of the school of commerce alone. Where the classes are large, there are especially strong reasons for placing this work under the supervision of the school in which the student is registered. As a general rule, a subject is given by one department alone. A student of engineering, desiring a course in economics, goes to the economics department for it. A business student, desiring a course in

political science, goes outside his college to the department of political science for this work. The problem of offering law courses to students in schools of commerce is only apparently analogous to the instances referred to. As a general rule, a student from one college, desiring to take work in another college, will find that the courses there organized, primarily for those in that college, are equally suitable for him. The professional law courses are not so conducted. The aims of the professional law course are sufficiently different from those involved in the teaching of law to business students as to make it undesirable, both from the teaching and the student standpoint, to have both groups of students in the same class. Where, however, but a portion of his time would be taken up, the number of business students being small, it is entirely possible for a member of the law faculty to assume charge of this work. In some instances this may prove to be the preferable policy. Instead of assigning complete charge of this work to a member of the law faculty, it is also possible for each member of the law school faculty to have charge of that portion of the special course for business students which constitute his work in the professional law school curriculum. The commercial law work would then be conducted alternately by several members of the teaching staff from the law school. There are obvious advantages resulting from this policy, but it becomes exceedingly difficult to maintain, if not unworkable, when the number of students increases to a point where several sections of the same course are made necessary. Where the class is sufficiently large to consume the entire time of one or more members of the teaching staff, it is perhaps preferable that such special course be administered in the college whose students enroll in it. Where this work is intrusted to a thoroughly competent and experienced man, there would seem to be no particular reason for the law school to be concerned about it. But in cases where an instructor recently graduated from the law school, and perhaps without experience in practice or teaching, is given supervision of this work, it would

seem that better results are likely to be obtained if the law and commerce faculties treat this work as a joint problem.

The possibility and desirability of utilizing the resources of the law school presents a somewhat different question when additional law work is provided for business students registered in specialized business curriculums. Where there are relatively few students desiring particular specialized law school courses, such as the law of insurance or of interstate commerce, it is possible for them to enroll in the professional course. There are relatively few law school courses, however, which are of such a nature that both professional and nonprofessional law students may be combined in the same class. Even here there will be some difficulties, from the teaching standpoint and from the standpoint of both groups of students. Where the number of commerce students is small, these difficulties would not be insuperable. But where a business student, preparing to enter the trust department of a bank for example, desires some additional law work in trusts, wills, and the administration of estates, it would be impracticable, both as regards the subject-matter and the time involved, for him to take the professional courses in the law of trusts and wills. As a rule professional law courses will not be suitable for the needs of the commerce student. Though such courses, for the most part, must needs be specially organized, it may prove desirable, in certain instances, even though the principal law course for business students is conducted by a member of the commerce faculty, for this special work to be done in the law school.

The ideal teacher for this group of nonprofessional law students would be one who, in addition to his being a law school graduate, should have had some experience in the practice of law, and, perhaps more important still, he should have some knowledge of business, and particularly a knowledge of the subject-matter of the various courses with which the commerce student is chiefly concerned. The business student comes to his class in the law of corporations with considerable knowledge of the organiza-

tion, financing, and operation of business enterprises. He knows a good deal about business policies, and he wants to know whether the law will aid or endanger particular policies, and what devices he may adopt to further his aims. Throughout the entire law course there exists any number of opportunities for making points of contact between the law as such and business. If an instructor, by reason of his familiarity with the subject-matter of the courses offered in the school of business, is able to make these points of contact, the permanent values of the course are greatly increased. No doubt it is often impossible, or impracticable, for other reasons, to procure such an instructor; nevertheless, these considerations render it highly desirable that an instructor in charge of this work should familiarize himself as much as possible with business procedure and with the content of business administration courses.

While some schools employ text-books as the basis of study, the majority are committed to the policy of relying largely upon case material. It would appear that the case method of instruction has proved just as effective in the instruction of this group of nonprofessional law students as it has in the professional law school. There is manifested, however, a strong tendency to modify this method to suit the needs of this group of students. Less emphasis is thrown upon the historical development of legal doctrines than is customary in the professional law school. Limitations of time prevent the study of the operation of a particular rule in connection with as many different combinations of facts as is possible in law schools, although this loss is strongly compensated for by the use of problems. Case material designed to bring out conflicts of authority, while less in extent, is used sufficiently to indicate that comparative study is deemed essential. The case method is further modified by the use of some text material along with the cases. In some instances this matter consists merely in the statement of legal rules and doctrines, which are developed in the cases following the text. This kind of use of text matter may well be questioned. Some text com-

ments carry the rule under discussion into analogous situations not developed in the cases. Such use of text statements is perhaps justifiable, and worth while, although the same end is likely to be attained with better results by the use of problems designed to search out these collateral aspects. Introductory statements, designed to indicate merely the nature of the problem presented in the cases immediately following the comment, and to stimulate an interest on the part of the student, are also used. As a rule the cases have been edited more extensively than is customary in the preparation of cases for professional law students. There is some variation as to the extent to which this cutting down of cases should be carried. This process should not be carried to the point where the case fails to present a concrete problem, and it is usually not so carried.

In the matter of the organization of materials there is also a general recognition of the fact that the problem here is different from that involved in the instruction of the professional law student. There are two general policies pursued. In the one, the general scheme of organization follows substantially the traditional lines developed in casebooks designed for professional law students. Even here there is some variation. After the selection of the major topics to be developed, it is possible to bring into them many topics from other fields of the law. Certain special types of contracts, such as that of the carrier and of the surety, are given subordinate treatment, after the general principles of the law of contract are considered. Many doctrines of equity may also be adverted to in connection with, and as they affect, the main subject under discussion. The other general plan of organization proceeds from an analysis of the functions of a business enterprise, and groups certain topics of the law together under business concepts, so as to disclose the law's effect upon the various functional processes of a business. Some excellent work has but recently been done along these lines. Whichever general policy is pursued, there exist strong reasons for making a careful study of the problems of organ-

izing the case material for the business student.

Teaching methods are substantially the same as those employed in law schools. There is the same necessity for requiring the student to abstract the cases assigned, to be able to state the precise point decided in a case, to generalize the results of a series of cases into a statement of a legal principle, to be able to reason by analogy and by deduction from generalizations. The work of the classroom should not, however, stop at this point. There exist the strongest of reasons for definitely relating the results of legal analysis and generalization to matters of business policy. For example, after considering a number of groups of facts relating to offer and acceptance, some of which are held to constitute offers and others reaching different results, it is well to shift the point of view sharply and call attention definitely to the fact that in conducting preliminary negotiations the selection of words is one of the distinct problems involved. The student, after noting the results in the cases, is then able to appreciate strongly the fact that before the facts become fixed it is within his power to reduce materially the possibilities of future litigation. Similar opportunities present themselves throughout the entire course. Problems prepared with the view of encouraging the student to make this shift in point of view are effective.

There is also some difference in the degree of emphasis which should be thrown upon different portions of the law. A professional law student is interested equally in all portions of a given subject, for he will occupy the double position of counselor to his clients before the facts become fixed, and also of an attorney in the actual trial of contested cases after the facts are beyond control. The business student, on the other hand, is interested largely in those parts of the law which will disclose to him something which will affect his choice of business policies. A business student has no interest, therefore, in such subjects as pleading, except in so far as it aids him in understanding something more vital.

His interest in all phases of a given subject are not equal. In bankruptcy, for example, it is worth while for him to know what are the operative facts upon which an adjudication may be had, what debts are provable, and what dischargeable; but he is not so greatly interested in ascertaining the exact powers of the trustee with respect to the bankrupt and the various groups of creditors. Here again his attention should be directed to the question of business policy. Assuming that it is possible to obtain an adjudication, under what circumstances will it be wise to take or to refrain from taking this step? These questions cannot be settled in the classroom to any great extent, but the existence of the problem may there be profitably emphasized. So, also, in negotiable instruments, there is greater reason for dwelling, with considerable detail, upon the rules with respect to the necessity of presentment, notice of dishonor, and protest than there is for going extensively into the various ramifications of the legal consequences of forgery. In other words, in the selection of courses and of topics within courses, it is important to emphasize those portions which will most directly aid the business student in the selection of wise business policies.

There is little indication that the business student, in his study of law, is required to do much outside reading. Here and there it will be found desirable, perhaps, for him to do some collateral reading; but it is believed that, as a rule, the casebook will furnish him all the material needed. The making of abstracts of cases, the preparation of summaries of topics, and the solution of various types of problems given to him are more likely to result in permanent value than to spend the same amount of time in extensive outside reading.

The teaching of law to business students is of growing importance. It has been found that in 14 schools the registration runs from 1 to 25; in 25 schools, from 26 to 50; in 12 schools, from 51 to 75; in 14 schools, from 76 to 100; in 9 schools, from 101 to 200; in 6 schools, from 201 to 300; in 4 schools from 301 to 500; in 3 schools from 501 to 1,000.

These figures will increase as schools of business administration develop, and the problems involved in the proper conduct of these courses will continue to merit

the careful consideration of those interested in this phase of legal instruction and of those concerned with the broader problems of business education.

An Experiment with a New Application of the Principles of the Case Method

By RAY A. BROWN

Assistant Professor of Law, University of Wisconsin

THE late Dean Ames, of the Harvard Law School, in an address delivered at the University of Pennsylvania in 1901,¹ quoted with approval the testimony of Chief Baron Kelly, of the English bench, delivered before the parliamentary commission of 1855 on the methods of training for the bar. The Chief Baron had said that, if he were to prescribe a method of legal training, it would be to study, as he himself had done, in the office of a barrister, where the students received for investigation and report the actual cases of the clients who came into the office, and, after this was done, discussed them with the barrister, learning his decision, and the reasons therefor. Dean Ames, after recognizing that this sort of legal instruction is no longer possible in the office of the busy present-day practitioner, continued: "One of my colleagues has said that if the lawyer's office were conducted purely in the interest of the student, and if by some magician's power the lawyer could command an unfailing supply of clients with all sorts of cases, and could so order the coming of these clients as one would arrange the topics of a scientific law book, we should have the law student's paradise." It was Dean Ames' opinion that the closest approximation possible to what he styled this "dream of perfection" was the casebook system as employed in the law schools of this country. In view of the opinion of this great law teacher, it is with some natural hesitancy that the

writer ventures to assert that an experiment tried by him at the University of South Dakota Law School during the spring term of 1922 is a closer approach to the ideal suggested by Dean Ames, and indicates a more interesting and effective method of instruction than the one commonly used at present.

Instead of assigning to a class so many cases in a casebook to digest and state at the lecture period, two or three hypothetical or moot cases, carefully prepared to involve the principles of the subject the instructor desired to inculcate, were given out in advance. The students in preparation investigated these cases, and formed a conclusion as to correct answer to the problem involved, and then, instead of the conventional statement and discussion of reported cases, in recitation stated and argued these moot cases in a manner similar to that of the attorney arguing his case before the court on demurrer, motion, or appeal. Contrary opinions usually developed, and a general discussion was finally concluded by the "opinion of the court," given by the instructor, who presented his view of the case and of the law applicable thereto. The likeness of this method to that suggested by the Chief Baron and by Dean Ames' anonymous colleague is apparent, but, before going into greater detail as to the experiment itself, it may be well to state briefly the principles that underlie the casebook method of instruction, and why a change in some particulars from present methods seems desirable.

First, it must be admitted that the aim

¹ See *Lectures on Legal History*, p. 354.

of the majority of the law schools of to-day is, in the words of Professor William R. Vance, of Yale,³ to give to the "students such technical training in the law as will prepare them for efficient service at the bar." Professor Redlich in his masterly bulletin of the Carnegie Foundation on the "Case Method in American Law Schools,"⁴ shows how it came about that the law schools had to devote themselves primarily to this practical purpose, and he is merely stating the consensus of opinion of the leaders of the bar when he says that the law schools of collegiate rank best fulfill this demand for the training of lawyers for the practice of the profession. It is believed, however, that improvement is still possible, and that it may be had by a logical and natural extension of the principles inherent in the case method itself. It was the idea of Professor Langdell and his illustrious disciples that his great discovery disclosed a truly scientific method of teaching law. The theoretical basis of their experiment was this: Law is a science, whose sources are found in the adjudicated cases, and it should therefore be studied from this original material. From such study the student was to discover the general principles of law, in the same manner that the student of biology studies organisms and from them learns the great truths of physical life. However, there was soon a shift of emphasis from insisting on the scientific inductive character of the instruction to its importance in training the student in "legal thinking," and to-day many of our great law schools insist more on this phase of legal education than on the mere imparting of knowledge of law. Professor Keener reiterated again and again his belief that by that system the "student is practically doing under the guidance of the instructor what he will be required to do without guidance as a lawyer."⁴ Dean Ames in the address from which

quotation has already been made said also: "If it be the professor's object that his students shall be able to discriminate between things apparently similar and to discover true analogies between things apparently dissimilar—in a word, that they be sound legal thinkers, competent to grapple with new problems, because of their experience in mastering old ones—I know of no better course for him to pursue than to travel with his class through a wisely chosen selection of cases."

To say that the case method does not go far enough in this very thing, the training of the legal mind, when it, and its concomitant Socratic method of instruction, is such a vast improvement over lecture and text-book systems, may seem rash. To the writer's mind, however, there is an objection to the present method of employing the case system, in that the answers to the questions raised by the statements of facts in every case are given in the opinion following. The mental labor, which the student should employ in analyzing and deciding the case, is done for him by the court, whose opinion lies before him on the printed page. The preparation for class recitation may be simply the copying of portions of, or the abstracting of, cases, with no more mental discipline involved than in reading carefully any difficult passage of serious literature. At this point I must hasten to make several admissions, lest I be misunderstood. The first of these is that the best books of instruction are made up of cases, whose import is not made immediately apparent by a precursory reading, but which require genuine study to understand properly. Their virtue lies in their difficulty. The old English cases are valuable for their brief opinions, their Latin phrases, their unfamiliar words, in that the student is required to think deeply in order to ascertain their holdings, the uncertainty of which often leaves opportunity for interesting argument. While the historical importance of many of these cases is recognized, is it not too bad that, in order to furnish the proper mental discipline for the student, we have to present to him the fundamental principles of the law

³ 31 Reports of American Bar Association, 1091.

⁴ See pages 18-22.

⁴ 28 American Law Review, 709. See, also, the preface to "A Selection of Cases on the Law of Quasi Contracts," and 1 Yale Law Journal, 145.

clothed in strange and foreign verbiage, and in connection with problems that have long ceased to exist? Surely there are present-day questions fully difficult enough to test the mettle of any student, the comprehension of which will be of practical, and not merely of academic, value.

I also realize that the preparation and statement of cases is not all that the student is required to do. He must be prepared to state and defend his opinion of the correctness of the case, to explain in his own words the principles therein contained, and to solve hypothetical cases based on, but varying more or less from, the reported one. And I admit that the student, who has the reported case merely "in his notes," and not also "in his head," will be at difficulty in successfully running the gauntlet of professorial and classmate interrogation. Nevertheless, the classroom discussion must be largely a guided and assisted affair. The opinions of students are apt to be improvisations of the moment, and not the result of serious original thinking exercised in preparation. Too often, as he prepares a difficult case, the perplexed student will say: "I do not understand this, but the professor will explain it in class." The law professor is doing the same thing as a teacher of mathematics would be doing were he to require the student only to restate the demonstrated theorems of his text-book, and not also to solve original problems. That the original demonstration is necessary we recognize, by composing our examinations of hypothetical cases, to be reasoned and answered by the student from the knowledge he is supposed to have obtained from the course as taught. Such valuable training should be extended, and a method that will require more original and constructive thinking than does the present usual adaptation of case material is, I contend, desirable.

Moreover, while the inductive process of reasoning, which results where the case method is properly used, may be the true method of science, the attorney, as he wrestles with the problems of his practice, uses, not only the inductive, but also the deductive, process, and the law schools are primarily engaged in making

attorneys and not scientific law writers.⁵ It is often said that the student should be trained to reason legally, to think as a lawyer; but has enough attention been given to the question of how the lawyer thinks? Practically every problem that the attorney meets comes to him in its essence as a more or less jumbled group of facts. Roe has conveyed part of his farm to Doe, but refuses to allow Doe to draw water for his cattle from the spring on the land Doe retains, though Roe himself had formerly so done. Jones has been run down by Smith's automobile, which had no lights, though it was dark. A state has provided by statute that the lowest wage which may be paid to adult workers is \$2 a day. Now, the lawyer is not interested primarily in writing a scholarly treatise concerning easements, torts, or constitutional law, but he is tremendously interested in advising his client how he should act relative to the concrete problem presented by the facts which are placed before him. He has no court's or jurist's opinion on the question, but alone and unaided he must examine and diagnose his case in the light of the law as it exists, so that his conclusions as to his client's rights will stand the acid test of litigation. In ascertaining the legal principles applicable, he may induce a general rule from the individual cases he has examined; but it still remains for him to apply that general principle to the particular problem he has before him, and this is deduction, and, it is submitted, of no less importance to the lawyer than induction. We require it of the student in his examinations. Why do we not require more of it in his daily work, not merely by improvisations in the classroom to the questions of the instructor, but by carefully studied and constructed opinions in the student's study as he prepares for his class work? A system, which would combine the inductive with the deductive, would certainly be an advantage, if our theories of teaching the student to think as a lawyer are correct.

⁵ Professor Redlich, in the bulletin above referred to, shows on pages 54-59 that the glory of the case system is not in its inductive method, but in its resort to original sources, the adjudicated cases.

It is submitted that the method employed by the writer in the experiment above referred to, does this very thing. A wider use of moot cases, or problems, as a dynamic to teach the student to think constructively and originally has long been advocated by Professor H. W. Ballantine,⁶ who makes the same criticism of the casebook method as the writer, and who has collected a series of hypothetical cases for use in the course in contracts.⁷ Others have doubtless experimented more or less with similar schemes. It would seem that the theoretical basis of the method would be unassailable. My experiment in the University of South Dakota leads me to believe that the plan is also a practical one. It was tried with a junior or middle class of thirteen students in the course in insurance over a period of approximately thirty class hours, and comprised the sole work of the class. During this time fifty-eight hypothetical cases were assigned, intended to develop the topics of insurable interest, the making of the insurance contract, concealment, representation, warranty, waiver, and estoppel, and a consideration of the various rights under the policy.

Now, while it might be theoretically correct to leave the student to work out each case entirely without suggestion, lack of time, lack of library material for the whole class, but principally lack of ability on the part of the average student without previous experience and knowledge of the subject to search the wilderness of insurance cases for the correct law, and to arrange and apply it properly to his case, made such a plan difficult. It would be too much to expect him to do in a few hours what the experienced attorney might require days to do well. Vance's Cases on Insurance was therefore used as a casebook, and with each hypothetical case was giv-

en a citation of the cases in Vance to be used as authority, and if there were a South Dakota statute or decision applicable reference was also made to it. The student was allowed to make his choice between a holding for the plaintiff or for the defendant. At the recitation period I tried to assume as far as possible the rôle of a judge appointed to hear the case. A student was called upon for case No. 1 on the docket. He announced whether he held for plaintiff or for defendant, stated the facts, and argued the case as before a court, citing and presenting the cases from the casebook as authority for his holding. Contrary opinions were then called for, and one of the interesting and pleasing things was the diversity of opinion developed on nearly every case. Practically all members of the class took part in the discussion which ensued, which was ended by the "opinion of the court" rendered by the instructor, which gathered up the loose ends of the discussion, reviewed the authorities, and referred to articles, notes, and cases, where those interested might delve further.⁸

⁸ An illustration of what was required may be of interest. In the topic of insurable interest in property one case was as follows: An amusement company builds a summer theater on a lake directly opposite from a populous city. A., in anticipation of a profitable transportation business, buys a launch and establishes dock facilities, all at a cost of \$5,000. He fears that, if the theater is burned, his expenditure will be for naught, and accordingly takes out a policy of insurance on the theater. Can he recover, if the theater is burned? The authority cited was *Farmers' Mutual Insurance Co. v. New Holland Turnpike Co.*, 122 Pa. 37, 15 Atl. 563, *Vance's Cases on Insurance*, 112, which held that a turnpike company had no insurable interest in a bridge belonging to the county, but on its road, the continued existence of which was necessary, if the company were to continue to use the turnpike. An interest, in order to be insurable, must be such that it can be enforced at law or in equity. The analogy to the moot case is apparent, when it and the reported case are properly analyzed.

Usually the cases were more involved and difficult. Case No. 30, on the point, of misrepresentation, was this: Samuel Friedman, in behalf of the Samuel Friedman Company, has made an application for fire insurance on the wholesale clothing house owned by the company. In answer to the question in the application, "Is the business owned by a corporation, partnership, or individual?" he stated, "Corporation." As a matter of fact, the articles which he and his brother, Nathan, had

⁶ See "Adapting the Casebook to the Needs of Professional Training," 2 *American Law School Review*, 135; "Teaching Contracts with the Aid of Problems," 4 *American Law School Review*, 115; and an article by Benton R. Cole, 3 *American Law School Review*, 128. ⁷ "Problems in the Law of Contracts," The Lawyers' Co-operative Publishing Company, Rochester, N. Y., 1916.

It is not contended that the method as used was brought to perfection, and, in fact, much further experimentation on certain lines would be desirable, but I was convinced that it had certain advantages. First among these was that the student approached the case in the casebook with a definite object. It was not something to be read simply because assigned. It was something of paramount importance in a concrete problem, for in that adjudicated case he was to find the principles which would aid him in solving his moot case. This not only made his reading a more interesting exercise, but it also taught him to use his cases

signed were articles of copartnership, and not of incorporation, as the two Friedmans had erroneously supposed. The policy was issued to the "Samuel Friedman Company," without further designation. In answer to the question, "Are there fire extinguishers on each floor, and how many?" he stated, "Yes; 8." As a matter of fact, while there were extinguishers on each of the main floors of the building, there were none in the basement, and none on the office floor, which was a sort of balcony, 100 feet by 20 feet, hung between the street and second floor, reached by stairs and elevator, and subdivided into offices by building board and glass partitions. There were only eight extinguishers in all, and not eight on each floor. Samuel had no personal knowledge as to how many extinguishers there were, and took his information from an employee. The policy, which makes no specific reference to the application, is in the standard South Dakota form. There is a loss, and the insurance company defends on ground of misrepresentation. Can the insured recover on the policy? The authorities cited were, *Pawson v. Watson*, 2 Cowp. 785, *Vance's Cases on Insurance*, 318, a case of marine insurance, distinguishing between representations and warranties, and holding that insurance on a vessel, which was represented to have 12 guns and 20 men, was not avoided because it had 13 guns, 6 swivel guns, and a crew of 16 men and 11 boys; *Daniels v. Hudson River Fire Insurance Co.*, 12 Cush. (Mass.) 416, 59 Am. Dec. 192, *Vance's Cases on Insurance*, 344, containing a dictum to the effect that a misrepresentation must be willful and material in order to avoid a policy, and a very liberal construction of a provision that water buckets should be in each "room"; *Continental Insurance Co. v. Kasey*, 25 Grat. (Va.) 268, 18 Am. Rep. 681, *Vance's Cases on Insurance*, 351, holding that a false representation of a material matter will avoid a policy, though not fraudulent; and *Armour v. Transatlantic Fire Insurance Co.*, 90 N. Y. 450, *Vance's Cases on Insurance*, 354, to the same effect, where an agent of the insured, through an innocent mistake, misrepresented the amount of insurance already placed on the property. It will be seen that there are several points in the moot case, and that a thorough understanding of the cited cases is necessary to properly solve them.

as a lawyer must use them, not only as storehouses of miscellaneous legal knowledge, but as authorities in solving definite legal problems. At this time, when we have so many long cases in our reports, involving such a jumble of substantive and adjective law, this training in the art of picking out the lode star from the crowded constellation of lesser lights cannot but be valuable. It is believed that even in a greater degree than the orthodox method of casebook instruction it teaches the students "to discriminate between the relevant and the irrelevant facts of a case, to draw just discriminations between things apparently similar, and to discover true analogies between things apparently dissimilar, in a word [to be] sound legal thinkers."⁹

Another great advantage was the extreme interest I found aroused in my class. After two years of conventional analysis and discussion of cases, the class work sometimes palls. But here the students seemed to feel that they were really engaged in the work of the lawyer. After one had grappled with a problem and reached his own solution, he was not ready to surrender that child of his mind to the first opponent with another theory.¹⁰ I found that the class frequently ran over the hour without realizing it, and at times the discussion became so spirited that, in the interests of decorum, a halt had to be called. Considerable firmness was needed to keep the discussion within bounds, and to close it when the limits of its profit had been reached.

A third valuable result was that the student was taught how to develop properly a legal argument, and how to present it before a judicial tribunal. There has been some complaint from the bar that many of the students of our law schools cannot properly brief a subject. Some schools have offered courses in "brief-making" to fill the need. Much of the lack has been laid to an unfamiliarity with the digests, encyclopedias, and

⁹ Dean Ames, in the address cited before, *Lectures on Legal History*, p. 363.

¹⁰ The discussion of their answers to the questions of an examination, which students always engage in after writing examinations, is another instance of the power of original problems to arouse interest in a class.

law books of to-day; but, while knowledge of these is necessary, they are but the tools of the profession, to be learned in a comparatively short time. The true success of a legal argument lies in the trained mind back of the tools employed, and how better can such a mind be developed than in daily exercise with moot problems, such as the lawyer actually meets in his practice? The student, in analyzing the facts of his case, in reading his authorities, in drawing his analogies, in making his distinctions, and in presenting the results in a concise, logical, and forceful argument, is doing the best thing to attain the qualities needed as an attorney in serving his client. And not only that, but the instructor is ideally situated to assist him in reaching the desired end. He hears every day the argument of the student on his moot case, he sees the good and the evil, the strong argument made on an abstruse point, or the failure to analyze properly whereby an important distinction is missed. All this will be brought out in the discussion of the case, and the opinion of the instructor afterwards.

Not only in the preparation of the case, but also in the presentation of it, is valuable training afforded. I have often noticed, in classes where the conventional method of stating cases is employed, how perfunctory a matter that statement is, sometimes read from notes in such a fashion that one not familiar with the subject-matter would find it difficult to follow what was said. Such a fault is not easy to eradicate. Under what might be called the hypothetical case system, however, the statement and argument of each case is a living thing. In the class, as I conducted it, the student was required to rise and to present his case as before a court. Not only did he have to have a good argument; he also had to present it in such a way as would carry conviction. As it was his own product that he was vending, there was an incentive to do this; also, in the argument which followed, valuable experience was gained. Some students, when their positions were assailed, were at a loss how to support them. Others would have a ready command of legal doctrines

to use in defense. If the first statement of an authority was not accepted, they had the words of the court available, marked in the report by them. The hardest thing to do was to get them to develop their own legal and logical arguments, but, if the presentation and argument of each case were satisfactory in all respects, it would not be an argument in favor of the method. That the result was not that which one might desire from trained lawyers is the very reason why training to reach it is desirable, and the instructor is certainly in an excellent position to assist by presiding as over a moot court each recitation period.

Another important point in favor of this hypothetical case system is that it affords the opportunity of placing before the student in a way likely to be of benefit a larger variety of legal material. Professor Redlich has spoken of the "extraordinary slighting" by our modern schools of the great law text-books. The fact is that they do not enter into the warp and the woof of the casebook system, but are supplementary material only. If, however, the student is assigned a moot case to solve, there is nothing to prevent, besides a reference to adjudicated cases, use also of pertinent passages from some of our best legal texts. The student can refer to and use them in a vital manner, pondering on the soundness of the views therein expressed, and testing them by an application to the facts of his concrete case, without having his opinions made for him, as is the danger of pure text-book instruction. Along this same line, criticism has been made that the law schools do not teach enough local law.¹¹ If a teacher wishes to emphasize the local law on a certain point, it is very easy to cite, along with the cases in the casebook, the local cases to which he wishes to draw attention. The student thus gets the general law, and also the particular local holding.

I found the opportunity to do this very nicely in one instance. The Supreme Court of the United States, in *Washington Central National Bank v. Hume*, 128 U. S. 195, 9 Sup. Ct. 41, 32 L. Ed. 370,

¹¹ See the late A. M. Kales' article in 21 *Harvard Law Review*, 92.

Vance's Cases on Insurance, 615, held that under the facts of that case the creditors of a deceased debtor had no claim on the proceeds of a large amount of life insurance payable to his widow, though he was insolvent at the time payment of the premiums was made. In *Cornwell v. Surety Fund Life Company*, 184 N. W. 211, the South Dakota court on somewhat different facts came to the opposite conclusion. The hypothetical case employed was somewhere between these two, and was assigned to the class for argument. It was particularly interesting in this instance, inasmuch as the case assigned was patterned after an actual case then in litigation before the courts of the state, and the students were thus doing in a small way what the attorneys of the bar were doing in a larger way. Moreover, by this method opportunity was found to acquaint the students with the statutes of the state in a way that aroused their interest.

However much one may deplore the vagaries of much of our legislation, and however small a part it may play in some casebook instruction, it must be admitted that the Code and Session Laws of a lawyer's jurisdiction are of supreme importance and cannot be neglected. Accordingly, whenever a statute was in point, reference was made to it. At first, when the Code was cited, the class was inclined to rely on that alone, and the discussion was in danger of deteriorating into a fruitless game of word play, as they endeavored to apply the statute to their cases. I soon required that the one presenting a case give, not only his holding under the Code, but also that under the common law. In this way the students soon came to see that the application of statutes to concrete cases is not always a mechanical operation, and it is believed that the training made them more apt, and less blind, interpreters of statutory law, which plays such a large part in the problems of the present-day lawyer.

To summarize, the advantages of the method above outlined are these: More individual and constructive work is required of the student; the method is both inductive and deductive; skill is

gained in the solution and presentation of legal problems closely approximating those which constitute the great majority of those of the practicing attorney; greater interest is aroused; and a wider range of jural material is placed before the student. If, however, the method is to be used successfully, several things must be borne in mind: First, that it requires more of both the instructor and the class than the orthodox method of instruction. The mentally lazy student will not thrive under it. Moreover, it should not be attempted until the student has gained proficiency in the reading, statement, and discussion of cases from a casebook. I was forced to try my experiment with a second-year class. I believe that better results would be obtained from seniors, who have greater training, better developed minds, and a wider knowledge of the fundamental principles of the law. It is not intended to supplant the present casebook method, but only to furnish new and advanced work towards the end of the law school curriculum, for which the casebook method has been excellent preparation.

Much, of course, depends on the choice of hypothetical cases and the authorities to which reference is made. As there is a world of difference between good and bad casebooks, so there is between good and bad selections of hypothetical cases. They should not be mere paraphrases of those in the casebook; neither should they be so dissimilar that the student cannot discover reasonably the guiding principle in both. In general, when a new topic was approached, I found it desirable to make the hypothetical case of such a nature that the legal proposition contained therein should appear plainly, so that "he who runs may read," and that the cited authorities should contain clear, well-reasoned opinions, with good general statements of the principles of law which I wished to inculcate. As progress was made in that particular field of the law, the cases were made more difficult, and the questions raised not so obvious. Probably better results could be obtained if the author of the moot cases were at the same time the compiler of the cases used for reference. He

could then map out the points he wished to cover in the course, and make his hypothetical cases and his authorities integral parts of one plan. In using another's collection of cases, however excellent, the instructor may find that he is raising constantly questions which do not find any answer in the cases in the casebook.

The instructor must be merciless in requiring thorough work, and must not accept from the students scant passages gleaned here and there from the opinions. Make them use the case in the casebook as an actual decision in point, and not as a mere text. Frequent corrections will be necessary, and often the instructor will have to assist in the argument, or will raise questions that the students themselves have not discovered. Too close a following of the rôle of the judge on the bench is not at all times feasible. I found some difficulty in making progress as rapidly as I wished. The presentation and discussion of each moot case was generally so full and vigorous that two well-chosen cases, each containing, however, several points, was all that the class could handle in a period of fifty minutes. However, enough ground was covered to render it certain that the or-

dinary subject can be covered by this method without slighting important principles, if the instructor will exercise care to keep the discussion within bounds. As a method of imparting mere legal knowledge, I doubt if the system has any great advantage over the ordinary one employed, though my students said that they learned even the substance of the law better, because of the interest aroused in obtaining it. Doubtless the method outlined above will work better in small than it would in large classes. While it is not possible to give to each student an opportunity to state in the first instance a case more than once or twice, the discussion, which follows the statement, is general and all may learn by the example of those who do recite. Most important, however, is the training gained in preparing the moot cases before class, and in this all will share. The method I tried was with me but an experiment, but I firmly believe that, with carefully chosen hypothetical cases, a good casebook, and greater experience in handling classes of this nature, something can be given to the student which will prove of incalculable benefit to him in preparation for the legal profession.

Impersonal Law Examinations

By LAURIE VOLD

Professor of Law, University of North Dakota

I. EQUALITY AS AN ELEMENT OF JUSTICE.

THE first measure of justice that is instinctively set up is the standard of equality. The child measures the justice of his treatment by the standard of the treatment accorded his playmate. So in common matters people say, "What is sauce for the goose is sauce for the gander." The Declaration of Independence says, "All men are created equal." In technical law, the doctrine of "stare decisis" secures for successive litigants equality of treatment. In law examinations, similarly, the first question to be

suggested in case of complaints is the question whether others were treated in the same way. The instinctive demand for equality in order to secure justice is present in law examinations as it is everywhere else.

When the question of equality in law examinations is analyzed, it will be found to contain various perplexing problems. There is, in the first place, the readily recognized problem of maintaining equality of treatment in the estimation of results as between student and student in the same examination. There is, in the

second place, the problem of maintaining uniformity of standard between instructor and instructor in the same school. Noticeable disparity of estimate by different instructors of approximately equal proficiency among students is not readily forgiven, and easily leads to unwarranted student criticisms of the general quality of some instructor's work. There is, in the third place, the similar problem of maintaining uniformity of standard from year to year in order to treat successive groups of students on the basis of equality.

It is the purpose of this paper to set forth briefly a system of law examination procedure designed to remove the personal equation, and thereby secure substantial equality of treatment in all the before-mentioned aspects. Whether this practical working system of examination procedure can be substantially improved by any of the various recently begun experiments, attempting to apply psychological tests, it is as yet too early to say. Legal study must go on, and the proficiency attained therein must be rated in the light of experience, however fallible, until the new experiments show at least a fair prospect of greater reliability.

II. ORIGINAL STEPS TO ELIMINATE THE PERSONAL EQUATION.

The first step is for the examiner, at the time he frames the question, to make some memorandum of the scope of the possible answer. Usually the questions given as raising legal problems for solution by the students examined will be framed to approximate realities by containing facts involving several legal problems in combination, by containing facts raising border-line questions of degree, or by containing facts taken or adapted from actual reports of recent cases. Elements of novelty will be frequent. As in later actual practice, therefore, part of the task in law examinations will be to analyze correctly the facts presented, to see what problems of law are actually involved, as well as to give the correct answer as to what is the law on any particular points. The memoranda as to the scope of the answers will supplement the examiner's mere personal impressions,

and serve him as the initial guide in estimating the value of answers submitted in the examination.

A second step to take, in order to eliminate the personal equation, is to turn back the name covers of the examination books, to shuffle the books thus rendered impersonal, and to assign to each book a letter or number of identification. It might be even better to have no names, but to have the books simply numbered, and identification lists left in the first instance with the librarian.

A third mechanical precaution to take is to mark each question throughout the whole series of examination books before going to the next question in any book. This precaution is intended primarily to guard against changes of standard on the part of the examiner as he proceeds from book to book in estimating the answers.

A fourth mechanical precaution which may be taken is to reshuffle the books after each question throughout the series has been marked. This precaution may be useful to prevent possible variations of standard as between individuals from falling successively in the same places.

A fifth, and a very important mechanical feature in eliminating the personal equation is for the examiner to make definite comments on the page margin, indicating his criticisms of any answer that affect its rating. Especially where examination books are numerous is the practice of making marginal comments well-nigh indispensable, for the necessity it creates of keeping the examiner's attention sharply focused on the merits of the individual answer, and avoiding unconscious changes of standard.

It must, of course, be understood that, however it may be in various other fields of knowledge, in the field of law no absolute standard of correctness in examinations is identifiable. Law itself has too many uncertain features. What is interstate commerce? for instance, or what is a public purpose? or what is reasonable use of property? etc., are questions the answers to which, as a matter of law, cannot be given without weighing of conflicting considerations, estimating of relative values for the occasion of conflicting analogies, and exercising of some de-

liberate judgment. Furthermore, changing conditions are constantly raising new questions for solution in the application of the law. The automobile, for instance, not only has aided business and pleasure, but also has complicated highway traffic, wiped out many little towns, and increased the difficulty of apprehending thieves and bootleggers. What further changes are in store, due to the aeroplane and radio, only the future can show. The value of the practitioner's solution of an actual legal controversy, therefore, often involves the exercise of personal judgment by the members of the court before which the conduct undertaken or defended on the practitioner's advice is brought for adjudication. Since law itself contains such elements of uncertainty, uncertain elements cannot be removed from law examinations without danger that those examinations will lose contact with the realities in which the practice of law must be exercised.

III. REVISORY STEPS TO ELIMINATE THE PERSONAL EQUATION.

The necessity of revisory steps to eliminate the personal equation from law examinations can be readily appreciated, when it is recalled that the only standard for measuring the relative difficulty of examinations is the proficiency of a large group of students themselves. The examiner has no magic yardstick by which to ascertain that his personal standard in estimating proficiency is always uniform. The students are many; the examiner is only one. Variations in quality among individual students tend to offset each other for the group as a whole. If the group is sufficiently large, it can be said with entire assurance that such variations will almost, if not entirely, offset each other, leaving the average proficiency of the group as a whole practically constant from year to year. These facts are so familiar to educators that further elaboration seems unnecessary.

(1) Standard of Revision.

The standard of proficiency of a large group of students is indicated, as educational experts have demonstrated, by

what is known as the probability curve. The results of this probability curve are expressed, for instance, by Dr. Starch in his "Educational Measurements" on the basis of five degrees of excellence as follows:

A, or excellent, should be assigned to approximately 7 per cent. of the pupils.

B, or superior, should be assigned to approximately 24 per cent. of the pupils.

C, or average, should be assigned to approximately 38 per cent. of the pupils.

D, or inferior, should be assigned to approximately 24 per cent. of the pupils.

E, or unsatisfactory, should be assigned to approximately 7 per cent. of the pupils.

A convenient mode of marking law examinations is to grade on the percentage basis, using 100 per cent. as the standard for the entire examination, with ten questions in the examination, and each question rated on the basis of 10 per cent. With several elements involved in each question, the original totals of impressions are then found on shades of discrimination of value easily appreciated by the examiner, but the percentage system is retained for the sake of accuracy in estimating the aggregate results of such impressions.

If the probability curve distribution of proficiency is applied to a percentage basis of marking, where the range of passing grades is from 70 to 100, and anything below 70 is regarded as unsatisfactory, we get approximately the following results:

A equals 94 to 100, which should be assigned to approximately 7 per cent. of the pupils.

B equals 86 to 93, which should be assigned to approximately 24 per cent. of the pupils.

C equals 78 to 85, which should be assigned to approximately 38 per cent. of the pupils.

D equals 70 to 77, which should be assigned to approximately 24 per cent. of the pupils.

E equals everything below 70, which should be assigned to approximately 7 per cent. of the pupils.

Where the distinction between conditions and failures is maintained, as is the

case at the University of North Dakota, E may be assigned to the range between 60 and 70, and F for everything below 60.

As a standard of measurement of group proficiency, which is approximately correct, taking the group as a whole, the probability curve is a very valuable check upon the correctness of the personal standard of the individual examiner. Whether a higher standard than that set by the probability curve should be deliberately required of the group of law students, in view of the responsibilities and temptations to be met in the legal profession, is a question of educational and social policy, beyond the scope of this paper. Should a higher standard be decided upon by those in authority, the

general problem of maintaining equality in applying it would remain the same.

(2) Actual Revisory Steps for Discovery and Adjustment of Faults.

For the discovery of faults, the revisory steps that should be taken are primarily mechanical. As the faults may not be real, however, but only apparent, these mechanical steps should, in their turn be checked by certain rational steps, before any adjustment is made. Illustrative tables, taken from actual examinations, are inserted at this point, while incidental references to them are made as convenience requires in the course of the description which follows of some simple revisory steps:

TABLE I.

Students.	A	B	C	D	E	F	G	H	I	J	K	L	M			
Q. No. 1	8	9	10	8	5	7	4	6	8	9	9	7	3	Actual Group Total	Actual Group Average, 975÷13.	Adjustment to Correct the Average Group Variation from the Basic Average.
" " 2	9	8	9	6	6	10	9	9	6	8	10	9	8			
" " 3	6	8	8	7	3	9	6	7	8	8	9	6	6			
" " 4	10	7	9	8	8	7	7	5	5	9	7	5	5			
" " 5	9	9	8	7	9	9	9	9	9	10	7	7	7			
" " 6	6	9	5	4	6	9	7	5	5	10	8	5	5			
" " 7	6	6	8	9	4	8	4	4	5	4	6	7	4			
" " 8	8	9	9	7	8	10	9	8	9	8	8	9	8			
" " 9	8	9	8	8	7	8	8	8	8	10	9	8	9			
" " 10	9	10	6	9	9	9	10	8	8	5	7	9	7			
Initial totals.	79	84	80	73	65	86	73	69	71	81	80	72	62	975	75	5
Initial letter grades.	C	C	C	D	E	B	D	E	D	C	C	D	E			
Adjusted totals.	84	89	85	78	70	91	78	74	76	86	85	77	67			
Adjusted letter grades.	C	B	C	C	D	B	C	D	D	B	C	D	E			

TABLE II.

Students.	A	B	C	D	E	F	G	H	I	J	K	L	M	Actual Group Total	Actual Group Average, 1030÷13.	Adjustment to Correct the Average Group Variation from the Basic Average.
Q. No. 1	9	9	9	10	9	6	9	7	10	10	9	10	8			
" " 2	7	9	10	6	5	5	6	8	9	10	9	10	7			
" " 3	9	5	8	5	9	6	4	7	9	8	7	9	4			
" " 4	8	7	10	7	8	9	7	8	7	9	9	8	8			
" " 5	7	9	9	9	7	7	8	6	8	10	8	10	10			
" " 6	10	8	9	8	8	7	8	8	9	10	9	10	8			
" " 7	9	7	10	8	7	9	6	7	6	9	9	9	8			
" " 8	6	8	6	7	9	8	5	8	4	8	6	7	10			
" " 9	8	8	9	9	9	7	6	5	8	10	9	9	7			
" " 10	8	5	10	6	8	7	8	7	8	9	8	7	8			
Initial totals.	81	75	90	75	79	71	67	71	78	93	83	89	78	1030	79.23	1
Initial letter grades.	C	D	B	D	C	D	E	D	C	B	C	B	C			
Adjusted totals.	82	76	91	76	80	72	68	72	79	94	84	90	79			
Adjusted letter grades.	C	D	B	D	C	D	E	D	C	A	C	B	C			

The first fault in examinations which can be conveniently identified by mechanical means is variation from the normal level in the standard of proficiency required in any one examination as a whole. In other words, it must be ascertained whether for the particular examination as a whole the examiner has been marking too leniently or too severely, as compared with the standard applied in other examinations and in other years, as indicated in the probability curve. Such variation from the normal level in the standard of proficiency required is readily discovered by making a mathematical comparison of the group average for the entire examination with the group average as it would be under the mechanical application of the probability curve. The basic group average for each student in a large group taken as a whole is 80 per cent., if estimated on the probability curve expressed in terms of 70 per cent. as the minimum passing mark and 100 per cent. for the whole examination as the measure of perfection. This basic average of 80 per cent. may be identified by the medium

point between 60 and 100, the usual average over which grades fluctuate when the probability curve is applied to a percentage system of marking with the minimum passing grade of 70 per cent. More elaborate calculations would place this basic average credit at 80.22, but for convenience in handling the figures the fractional per cent. may be disregarded.

Thus, in an examination of 13 students, showing a group total of 975 points (Table I), the group average was 75 per cent., just 5 points below the basic group average. With the same number of students in another examination and a group total of 1,030 (Table II), the group average was 79.23 per cent., not quite one point below the basic group average. Manifestly, the second examination was either somewhat easier or was graded with somewhat greater leniency than the first, unless other factors be identified as accounting for the disparity. In both examinations, other identified factors aside, the standard applied was a little too strict for complete fairness as measured in terms of equality with other groups, but the disparity from normal

was more noticeable in the first examination than in the second. Unless other elements to account for the variation from the probability curve standard should be identified, adjustment to that extent and no more should in these cases be made for the whole group, in the interest of equality of treatment as between this and other groups. It is thus possible to obtain a mathematical measure of adjustment, to make the level of the standard of proficiency applied in an individual examination correspond with the normal standard of proficiency as expressed in the probability curve.

The second fault in examinations which can be conveniently identified by mechanical means is abnormality in the spread of marks from the highest to the lowest. Under the standard of the probability curve, as applied to a percentage system of marking with 70 per cent. as the minimum passing mark, the spread from the highest grades to the lowest is likely to be approximately 30 or 35 points. A noticeably greater spread than that would rate as unsatisfactory a much larger proportion of the entire group than the probability curve standard indicates, while a much smaller spread than that would fail to discriminate quality in the examinees as carefully as the probability curve standard requires. Mere adjustment of the group level cannot correct this fault. If such abnormality is noticeable, and remains unaccounted for by identifiable factors satisfying the examiner's judgment, rereading of the examination books in the light of these abnormalities may be advisable, since some individuals have been rated either too high or too low, but the mechanical indications cannot identify the individuals.

The third fault in examinations which can be conveniently identified by mechanical means is variation from the normal proportionate distribution of grades. There may be too many A's, too few C's, too many D's, etc. Like abnormality in the spread of marks, this fault cannot be corrected by mere adjustment of the group level. If this fault appears, either the group examined actually varies from

an average group in its distribution of achievement, or the examiner's standard of correctness has unconsciously been permitted to vary from individual to individual. If the examiner, therefore, observes this fault in the proportionate distribution of grades in his totals, he must, in the interest of equality of treatment, satisfy himself, from his judgment of known factors involved, that such disproportionate distribution of grades is deserved, or, failing that, reread the examination books to discover where the variation in standard as between different individuals has occurred.

A partial deliberate readjustment of rating points in the probability curve standard may be suggested as proper for the administration of law examinations in institutions where the arrangements in substance are that 70 per cent. is the minimum passing mark in individual subjects, but an average of 78 per cent. is required for graduation. In such cases, without some readjustment of rating points somewhere, a very large fraction of the student body will be denied graduation. In such cases the basic average may be advanced a couple of points for each year of attendance, both in view of the fact that the graduation average requirement is so close to the probability curve basic average, and in view of the further fact that by more thorough selection, more mature development, and greater experience the upper classes are likely to be relatively stronger in average quality than the entering group. If this suggestion for deliberate readjustment of rating points is carried out, the proper basic average will be 80 per cent. for the first-year group, 82 per cent. for the second-year group, and 84 per cent. for the third-year group. As such readjustments are likely to occur in some manner with reference to progressively advancing classes anyway, it seems desirable, in the interest of uniformity, to reduce such readjustments, so far as practicable, to systematic form, in order to avoid capriciousness of operation, which is likely to involve personal inequalities of treatment.

The Moral Character of Candidates for the Bar

By Hon. GEORGE W. WICKERSHAM

of the New York City Bar

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AT the Conference of Bar Associations held in 1917, it was resolved "that this Conference recommend to state and local bar associations that they systematically endeavor to aid in the elevation of the standards of the profession by the evolution of actual methods for the ascertainment of the moral character of applicants for admission; the instruction of applicants and practitioners in proper ethical standards; the adoption of adequate disciplinary steps for the purging of the bar of unfit practitioners and for the suppression of unlawful and unauthorized practices."

The fundamental requirement of a good moral character on the part of persons seeking admission to the bar is assumed in all regulations, whether by statute or rule of court, in every state of the American Union. It hardly could be otherwise. The very nature of the relation of practitioners of law to the courts before which they practice, to the clients whose most important interests are entrusted to them, and to the public, to which their obligations increasingly are being recognized, requires sound moral character and an instinctive recognition of proper ethical standards. The regulations for the admission to the bar in practically every state begin by providing that a person of good moral character, possessing other qualifications specified, may be admitted to the practice of law upon compliance with the specific regulations.

At the 1913 meeting of the American Bar Association, Mr. Clarence A. Lightner, of the Michigan bar, read a paper entitled "A More Complete Inquiry Into the Moral Character of Applicants for Admission to the Bar," in the course of which he made this cogent observation:

"The banking and business worlds have learned that for true success, character counts. Lawyers of intelligence know that this is equally true of the legal profession, and yet, with a sense of helpless indifference, or with no sense at all, they, for the most part, neglect character as an element in legal education, and take no pains to exclude the ethically unfit from admission to the profession.

"The evils resulting from admitting a morally unfit applicant are not confined to the case in question. The admission to the bar of one having a low moral standard tends to lower the character of other practitioners and of the bar in general. Not altogether unlike the 'gang' in juvenile experience, the bar of any community has an ethical standard which fairly represents the average of its members.

"The public has lost confidence in lawyers, not for lack of intellectuality, but for absence of character in the profession. The people at large, and not without reason, regard the lawyer of today very much as the merchant. * *

"The general public does not know that there are in the profession lawyers whose services cannot be bought at any price for immoral use."

The whole of Mr. Lightner's address should be carefully read. I have some difficulty in refraining from quoting at length from it, because I find myself in such complete accord with all that he said. This subject increasingly has been brought to the attention of meetings of lawyers throughout the country, and yet surprisingly little progress has been made with it. The resolutions adopted by the Conference in 1916, went merely to the extent of providing that proof of moral character should be required as a pre-

requisite to registration, and that character credentials on application for admission should include the affidavits of three responsible citizens, who should be members of the bar, and the affidavit should set forth how long a time, when, and under what circumstances those making the same had known the candidate.

The report of the Committee on Legal Education and Admission to the Bar, made to the American Bar Association in 1917, so far as it bears upon this subject, was not acted upon until the following year. At that time, rule 5 was adopted, which read as follows:

"There should be an examination by the board as to the moral character of each applicant for admission to the bar, which examination should be in addition to the requirement of certificates as to his moral character and in addition to the examination as to educational qualifications. And each applicant should satisfy the board as to his moral fitness to practice law. The applicant should be required to file with the board evidence that he is a person of good moral character, which should include the affidavits of three responsible citizens, two of whom should be members of the bar of the state, and the affidavits should set forth how long a time, when and under what circumstances those making the same have known the candidate, and that he is to the knowledge of affiants a person of good moral character."

The existing statutes and rules of court on the subject in force January 1, 1922, as shown in a pamphlet published by the West Publishing Company, indicate that this rule in its entirety has not been followed in many states. Only in Kentucky, Minnesota, Missouri, New York and New Jersey is the applicant required to furnish such proof as the committee of the bar appointed to pass upon his application, or the court itself, shall require. In Arizona, Connecticut, Georgia, Idaho, Iowa, Kansas, Michigan, Maryland, Montana, Nebraska, North Carolina, South Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Wisconsin and Wyoming a certificate by two or more practicing law-

yers is sufficient and apparently conclusive. In Florida a certificate signed by the Judge of Circuit Court or the highest trial court of original jurisdiction, and of the State Attorney, or other general prosecuting officer of the state or division of the state where applicant resides, certifying as to his moral character and habits, is requisite, and in Iowa, his good moral character must be certified to by the District Judge or Clerk of the District Court. In Minnesota, affidavits of at least two responsible persons of the town or city of applicant's residence must be produced, stating how long, when and under what circumstances the persons making the same have known the applicant, and such further details as the State Board of Law Examiners may require. Pennsylvania requires satisfactory proof of the good moral character of applicant to be made, but states that the same "shall consist of a certificate to that effect signed by at least three members in good standing of the bar of the judicial district in which the applicant resides or intends to practice."

The state which has given the most careful consideration to this subject and has enacted the most careful regulations is New York, where, it may well be admitted, the need is greatest, because of the antecedents of many of the applicants to be licensed as practitioners. The New York regulations provide for the appointment in each department or district, of a committee of practicing lawyers to investigate "the character and fitness of every applicant for admission to the bar," and make detailed provisions for proof to the satisfaction of the Committee, of the character and fitness of every applicant. No person, the rules provide, "shall be admitted to the bar without a certificate from the proper committee that it has carefully investigated the character and fitness of the applicant and that in such respects he is entitled to admission."

This Committee is a body different from the State Board of Law Examiners. The latter ascertains the qualifications of the applicant, so far as legal education is concerned. His character and his general fitness to become a member

of the bar are intrusted to a different body. Kentucky has a similar provision, and no one can be admitted to the bar of that state without appearing before a committee on character and fitness, offering satisfactory proof before that committee of his good moral character, and receiving a certificate to the effect that the committee is satisfied that the applicant is a person of good moral character. The Supreme Court of New Jersey, by an amendment to its rules promulgated June 5, 1923, also has provided for the appointment in each county of a Committee whose duty it is to investigate the character and fitness of all candidates for admission as attorneys-at-law, resident in such county, and no person shall be recommended for admission until he shall have received the approval of such Committee. The rule also includes a provision which, while many times recommended, is, I believe, adopted for the first time by any court in the country, namely:

"It shall be the duty of the several committees on character and fitness so far as possible to keep under observation all applicants who have filed their certificates of commencement of clerkship in the clerk's office, resident or serving clerkships in their respective counties, from the time of filing of such certificates down to the time that they may have passed their examination for admission."

This rule, most desirable where expedient, probably could not be made effective except in rural communities. It would be quite impossible in large cities like New York, Philadelphia, Boston, Baltimore and Chicago, for any board of three or five examiners to maintain personal contact with all of the young men who had filed certificates of their commencement of the study of the law.

The American Bar Association, at its annual meeting in 1908, adopted certain canons of ethics, and many of the rules of courts or statutes regulating the admission to the bar require students to pass an examination in that code. Admirable as this code is, and important as is a knowledge of its provisions, it does not seem to me that the mere fact that the student may have studied and be able

to pass an examination in it, is of itself sufficient evidence of such moral character as to entitle him to admission to the bar. I am inclined to think that a knowledge of the Ten Commandments would be of greater importance.

But moral character involves more than committing to memory any code of rules of conduct. The character which a young man has shown in his daily life, the appraisal of his qualities by those with whom he has had social and business relations, particularly his actions when exposed to some temptation, are far more important than a knowledge of ethical rules. In small communities, where a boy grows up in the sight of his father and his father's friends, many people know his character, and statements by three or four persons of respectable standing in the community concerning him may well be received as sufficient; but in the larger communities, such evidence is far from conclusive. In order to know the moral character of the man, one must search the record of his life, short as it may be. The history of his school or college days, the experience of employers for whom he may have worked, the record of any legal controversy in which he may have engaged; his own candor or lack of candor in answering inquiries about himself; his appearance before the board of examiners—all of these things afford evidence of the character of man he is.

Fundamentally, a lawyer must be honest with his client and candid with the court. When a man, no matter what his other accomplishments may be, has signaled the activities of his young life by indirect action, lack of complete frankness, efforts to conceal from those whose duty it is to investigate acts that are susceptible of unfavorable interpretation, the probabilities are that in his relations to the court, he will cause more trouble than give assistance, and that the clients for whom he will naturally come to act, will be those for whom chicanery and deceit are desired. After a man becomes a member of the bar, he can only be disbarred for positive fraud or demonstrably unprofessional conduct. The bar should be protected from the burden of

cleansing itself from the presence of unfit members, by preventing the admission of those whose character indicates the tortuous direction in which their careers probably will be shaped. Provisions like those adopted in New York, New Jersey and Kentucky, tend to the protection of the bar from unworthy recruits.

The Committee appointed at the 1922 meeting of the Conference of Bar Associations to consider and report to the next meeting of the Conference plans for a more thorough examination into the character and moral qualifications of applicants for admission to the bar, submitted a report to the 1923 meeting based upon considerations such as those above set forth. This report and the resolutions recommended in it, were adopted by the Conference, reported to the American Bar Association and adopted by it. It is significant that in each of the states last above mentioned that have made the most careful provisions and have gone farthest in the direction of creating adequate machinery for investigating this question, moral character and fitness are coupled together. Fitness is something more than, something different from, moral character. It is something different from mere knowledge of the law. Fitness involves a sufficient intellectual foundation on which to build training for the practice of the law. This is something in which the existing regulations for admission are more defective than in any other respect.

Sir William Blackstone in his opening lecture on the study of the law, which forms an introduction to his famous Commentaries, speaks of the unfortunate custom which had grown up in England "of dropping all liberal education as of no use to students in the law, and placing them, in its stead, at the desk of some skillful attorney, in order to initiate them early in all the depths of practice, and render them more dexterous in the mechanical part of business. A few instances of particular persons (men of excellent learning and unblemished integrity)," he continues, "who, in spite of this method of education have shone in the foremost ranks of the bar, afford some kind of sanction to this illiberal path to

the profession, and biased many parents, of short-sighted judgment, in its favour; not considering that there are some geniuses formed to overcome all disadvantages, and that, from such particular instances, no general rules can be formed; nor observing that those very persons have frequently recommended, by the most forcible of all examples, the disposal of their own offspring, a, very different foundation of legal studies, a regular academical education."

Judge Sharswood, in the notes to his edition of Blackstone's Commentaries, published in 1868, makes the following observation with regard to the study of law in America:

"There is great—perhaps an overdue—haste in American youth to enter upon the active and stirring scenes of life. Hence it is undoubtedly true that many men are to be found in the ranks of the profession without adequate preparation. Very often the difficulties presented by the want of a suitable education are overcome by native energy, application, and perseverance; but more commonly they prevent permanent success, and confine the unlettered advocate to the lower walks of the profession, which promise neither profit nor honour. Unless in cases of extraordinary enthusiasm and where there are evident marks of bright natural talents, a young man without the advantages of education should be discouraged from commencing the study of the law. Not that a collegiate or classical course of training should be insisted on as essential—although it is, doubtless, of the highest importance."

In 1905, Mr. Lawrence Maxwell, Jr., of the Cincinnati bar, in addressing the American Bar Association, said:

"In many states there is no standard for admission to the bar, and in others the standards prescribed on paper are not enforced. One-half of the law schools in the United States do not require even a high school education for admission. Twenty-five per cent. of them require considerably less and twenty-five per cent. require nothing at all. * * * What sort of a learned profession is it, a majority or any considerable part of whose members have not sufficient com-

mand of the English language, or comprehension of their subject, or logical faculty, to be able to present the questions in a case which has reached the court of last resort, in a clear and orderly way?"

Since that date, the law schools have made great progress in improving the standards required for admission to their courses. Several of the older law schools now require a college degree as a prerequisite to admission. The requirements of others are less exacting, but many of them require the equivalent of at least two years of college training. Much less progress in this direction has been made by the statutes and rules regulating admission to practice in the several states. In general, it may be said that no state requires higher preliminary education than that furnished by four years at an average high school, or that required for admission to, not graduation at, a college or university. It is rather an extraordinary fact, that those who are responsible for framing the legislation and regulations on this subject, should consider that no higher degree of preliminary education is necessary as a prerequisite to the study of the law than so much as would entitle a young man to enter the freshman class of an ordinary college.

Yet, the law is a learned profession. It requires for its successful prosecution a trained and an informed mind, a catholicity of sympathy with the manifold activities of human life, a knowledge of the history of human institutions, and of many of those things which, in general, can only be acquired by pursuing at least the course of studies required in most colleges for a bachelor's degree. It certainly would not impose an undue hardship upon most young men to require a bachelor's degree, or an examination by an approved board to demonstrate a knowledge on the part of the applicant such as would be required for such degree, as a prerequisite to undertaking the study of a profession whose exactions have become so great as those of the law; whose problems are daily becoming more complicated, and whose relation to all the intricate relations of human life in modern communities is so direct and so im-

portant. There is a lingering tradition that because men in the past have, without the aid of college training or law school instruction, succeeded in getting into the bar, and have made a success of their practice, therefore no impediments should be interposed to any young man following the same course.

This sentiment—for it is sentiment rather than reason—wholly ignores the changes which have taken place in modern times, and the greatly increased exactions placed upon professional men by the increased complexity of our modern life. It also ignores the many opportunities afforded to all deserving youth for a college education, in every state in the Union. Universities and colleges abound in the United States. No young man of intelligence, sincerely desirous of making his way, need go without a college education for lack of means, and for the exceptional man, who has the intellectual capacity, but for some reason cannot avail of the opportunity, provision may readily be made that he shall demonstrate that, while he has not been able to attend college, he has acquired by other methods the education he would have received had he attended a college. It is a question of standards. It is a question of ideals. If the legal profession in general is content to have its ranks recruited from uneducated men, assuredly legislatures and courts will not exact standards higher than those the bar approves. It is certainly within the bounds of reason to say, that in no civilized country in the world outside of the United States are men licensed to practice law with such slender intellectual equipment as that specified in the laws and regulations of almost all the states of this Union. In England and France the bar is organized, and admission to it is controlled by organizations of members of the bar.

In England, the Inns of Court control access to the grade of barrister, and, generally speaking, all barristers are graduates of one of the universities. Exceptions are made in exceptional cases, and in those cases, the intellectual fitness of the applicant is tested by his being required to pass a preliminary examination in the same subjects he would have to

pass in the university. No one can become a solicitor, until he has been articulated to a practicing solicitor for a period of five years, which may be reduced to three in the case of graduates of certain universities and persons who have served for ten years as bona fide clerks to a solicitor and have been bona fide engaged during that period in the transaction and performance of their duties under the superintendence of a solicitor. All applicants, except graduates of certain universities, must also pass certain preliminary examinations. Even for this branch of the profession, which may be called the mechanical side of the practice of the law, certain preliminary education is required. The possession of a university degree is encouraged by the grant of privileges not accorded to those without it.

In France, applicants for admission to the bar must furnish to the Council of the Order of Advocates their certificate of graduation in law at an approved law school, and an inquiry concerning their moral character is made under the directions of the Council of the Order. No one can be admitted to the bar who has not pursued three years' study in a law school forming part of the French University, and who shall not have obtained a diploma evidencing graduation from such school. To enter upon this study and obtain such diploma, he must have the diploma of bachelor of secondary instruction, which is based upon classical studies, generally taken in a college or lycée.

At the time of the French Revolution, the Order of Advocates was abolished and any one permitted to pursue the vocation of advocate, but this liberty gave rise to so much disorder and dissatisfaction, that by the law of March 13, 1804, which remained in force until superseded by an amending act of June 20, 1920, the previous requirements were restored, the Order of Advocates re-created, and it was enacted that for the future no one could exercise the functions of advocate without having obtained his diploma as a graduate in law and having been registered under the direction of the Order. These requirements, writes Monsieur

Jean Appleton, the eminent French lawyer, who addressed the American Bar Association at Cincinnati two years ago, "rest upon the idea that a solid education is indispensable to the exercise of honesty, delicacy and comprehension of the profession of a lawyer. The French law considers that litigants must be guaranteed against the excesses and the maladdress of uneducated people who would enter without sufficient knowledge and education upon the legal profession.

A similar idea is slowly gaining progress among American lawyers. As is natural, it has been first recognized and put into practical application by the leading law schools. It certainly is time that consideration was given to this subject by courts and legislatures. In 1918, the American Bar Association adopted a formal resolution approving the action taken by many law schools in requiring two years of a college course as a condition of admission to their courses of study, and the Association expressed the conviction that this should be the minimum requirement recognized by law schools of the first class. In 1921, the report of the Section on Legal Education and Admission to the Bar, recommended certain resolutions which had been framed and reported by a special committee raised by the Section, which, on this point, embodied the foregoing resolution. In 1922, the Special Conference on Legal Education, held at the instance of the American Bar Association, at Washington, February 23d and 24th, adopted certain resolutions, among which are the following:

"Resolved, that the National Conference of Bar Associations adopt the following statement in regard to legal education:

"1. The great complexity of modern legal regulations requires for the proper performance of legal services lawyers of broad general education and thorough legal training. The legal education which was fairly adequate under simpler conditions is inadequate to-day. It is the duty of the legal profession to strive to create and maintain standards of legal education and rules of admission to the bar which will protect the public both from incompetent legal advisers and

from those who would disregard the obligations of professional service. This duty can best be performed by the organized efforts of bar associations."

The Conference indorsed, with certain explanations, the standards with respect to admission to the bar adopted by the American Bar Association on September 1, 1921. The following were included, viz.:

"Every candidate for admission to the bar should give evidence of graduation from a law school complying with the following standards:

"(a) It shall require as a condition of admission at least two years of study in a college. * * *"

The Conference declared:

"In almost every part of the country a young man of small means can, by energy and perseverance, obtain the training which the standards require. And we understand that in applying the rule requiring two years' study in a college, educational experience other than that acquired in an American college may, in proper cases, be accepted as satisfying the requirement of the rule, if the equivalent to two years of college work."

The resolutions adopted further set forth the following:

"We believe that adequate intellectual requirements for admission to the bar will not only increase the efficiency of those admitted to practice, but will also strengthen their moral character. But we are convinced that high ideals of professional duty must come chiefly from an understanding of the traditions and standards of the bar, through study of such traditions and standards, and by the personal contact of law students with members of the bar who are marked by real interest in younger men, a love of their profession, and a keen appreciation of the importance of its best traditions. We realize the difficulty of creating this kind of personal contact, especially in large cities; nevertheless, we believe that much can be accomplished by intelligent co-operation between committees of the bar and law school faculties."

These provisions now are embodied in the recommendations adopted at the 1923 meeting.

The high ideals of professional duty and a knowledge of the traditions and standards of the bar, are learned, partly from personal contact with men who in themselves exemplify those standards, and partly from familiarity with the literature and history of the law and of the institutions of our country. The value of education primarily consists in the training of the mind, but it also involves the inculcation of a knowledge of human experience in the past, based upon which the student may be able the better to appraise the value and the import of matters arising in his own experience. The uneducated man will meet an experience in life common to every generation, with the impression that he is discovering a new thing; whereas it may be as old as Greece or Rome. A fair knowledge of history enables one to appraise at their true worth, remedies and nostrums, theories and ideals, new to him, but which in the past have been experienced, weighed and rejected by men.

Finally, the true ideals of the profession are embodied in the tenth resolution adopted at the Conference mentioned and included in the latest resolutions urging upon courts and bar associations, "to charge themselves with the duty of devising means of bringing law students in contact with members of the bar from whom they will learn by example and precept that admission to the bar is not a mere license to carry on a trade, but that it is an entrance into a profession with honorable traditions of service which they are bound to maintain."

Here lies the crux of the whole case. Is the profession of the law a mere trade, or is it a profession, with honorable traditions of service? Is a license to practice law of no higher import than a license to exercise the vocation of a plumber or a miner? If it is not, then no preliminary education is necessary, and nothing but a certain technical training should be required. But if, as the Committee maintained and the Association believes, the practice of the law is an honorable profession, a learned profession, a profession of intimate importance to the community, a means of leadership in our modern democracy, then the require-

ments for admission to it as formulated in most of the rules and statutes of the states of this Union are wholly inadequate, and it is the duty of the bar by every honorable means in its power to seek to substitute for these provisions requirements more adequate to insure the

proper qualifications for entry into a great, a learned and a noble profession. The Resolutions adopted at the 1923 meeting indicate the methods by which it is sought to persuade courts and legislatures it is best to proceed to the accomplishment of these great ends.

The American Institute in Berlin

THE following description of the American Institute is reprinted from the article by Mr. Allen Shoenfeld in the "Transatlantic Trade" of March, 1923. This magazine is the official monthly publication of the American Chamber of Commerce in Berlin.

"Many an American student in Berlin has accounted it a day marked by particularly good fortune which saw his introduction to the American Institute. Founded in 1910 through funds turned over to the German Ministry of Education by the late Jacob Schiff of New York, and James Speyer, it has continued to function despite the war and financial reverses, acting as advisor to visiting scholars, placing at their disposal a comprehensive English library of reference and assisting them greatly in cutting the Gordian knots of governmental red tape.

"The Institute exists primarily to further scientific intercourse between the United States and Germany. As the representative of the Smithsonian Institute in Germany, it has, since its inception, handled nearly 40,000 books, pamphlets and instruments of a scientific nature. During the year 1922, 691 such shipments were distributed according to the well-defined principles of reciprocity which govern such exchanges.

"Located in the State Library building at the Universitat Strasse and Unter den Linden, the suite of nine rooms is easily accessible. With their atmosphere of studious quiet, they present a pleasing contrast to the hurry and bustle of the world-famous thoroughfare without. From the silken American flag on the director's desk to the reading room with its current American newspapers and peri-

odicals the aspect is distinctly American.

"For the student, who not infrequently is compelled to journey abroad with a minimum of equipment, often without the moral support of an adequate dictionary, to say nothing of hundreds of books of reference, the library of the Institute is an oasis. The 15,000 bound volumes, including many government publications, give a comprehensive picture of the economic, social and political conditions of America. Standard histories of the United States enhance the collection.

"The library is used also by German scholars studying certain phases of American life. The guest-book of the Institute contains the autographs of some 800 American statesmen, educators and publicists and is one of the highest-prized treasures of the institution. One of the first entries was made June 17, 1913, by Andrew Carnegie, who wrote, 'Success to every step that tends to draw our Teutonic race closer together. May its destiny be to banish war.'

"A futile hope in the light of the world conflict—but a good beginning for the guest-book and for the Institute. There follow the names of members of the Taft Commission on Monetary Matters in Europe, of economists, historians, exchange professors, museum curators, of members of the Hoover Commission. Nearly every large American university has its representation.

"The institute is continuing its work despite the handicap arising from shortage of funds. No state appropriation is made for it and it subsists entirely on contributions from both Americans and Germans. No charge is made for its

services to visiting scholars. That those services are considerable is ascertained in a conversation with two directors, both of whom have had considerable experience in teaching at various American colleges and universities.

"Often the student has no knowledge of either the customs or language of Germany," one said. 'He may be the holder of a fellowship, a professor on sabbatical leave, or a student interested in some particular phase of German life or law. It is our duty to assist him with works of reference and, more particularly to put them in direct touch with German authorities in their specialized field, whether it be housing, banking reform, taxation, land ownership, rural credits, or public utilities.

"The day of the mere degree hunter in Germany has passed, due, no doubt, to the stupendous development of the American university. On the other hand, the maturer type of student has greatly increased. Their interests may be temporary, but they are so much the more intense. The Institute intends to minimize the efforts of the individual investigator, sparing him both time and money.'

"Fifty-five American students in Berlin, either in attendance at the university or pursuing individual lines of study, are at present registered with the American Institute. One of the directors is corresponding member of the International Institute of Education and in this capacity is enabled to supply American stu-

dents with detailed information regarding courses of study and facilities for research offered by Berlin upon inquiry and without putting prospective visitors to the painful necessity of making what may often turn out to be disappointing discoveries for themselves.

"By special arrangement with the copyright office at Washington, the Institute undertakes to assist German authors and publishers in obtaining copyrights for German books in the United States.

"The supervision of the Institute is still, nominally, held by the Ministry of Education but an advisory board of the foremost teachers and scientists in Germany actually determines its policies. Hampered to a great extent by the war and the chaotic conditions following, the institution is, nevertheless, undiscouraged.

"According to the directors, no conflict between nations can ever be great enough to destroy the fraternalism which has existed between those engaged in the same scientific pursuits. Such conflict can and does cause a temporary severance of relations but the interests of scholars are too close-knit, too world embracing to be long bound by nationalistic rancor.

"If the inventive genius of America has something of value to give to Germany, the slow-going, meticulous research scholar of Germany believes he has something equally valuable to exchange. It is the aim of the institute, say those in charge, to foster that exchange."

Proceedings of the Section of Legal Education

Minneapolis, Minnesota, August 28, 1923

THE meeting of the Section of Legal Education of the American Bar Association was held at the Hotel Curtis, Minneapolis, Minn., at 2:30 p. m., on the 28th of August, 1923.

Presiding: Hon. Silas H. Strawn, Chairman. John B. Sanborn, Esq., Secretary.

Chairman Strawn. May we come to order, please, gentlemen? As all of you know, at

the meeting held in Washington, in February, 1922, which was designated as the "Washington Conference," there was adopted a series of resolutions which were subsequently adopted by the Association. Therefore I take it that there is no controversy about where the Association stands with reference to the requirements for admission to the bar. You are all familiar with those requirements. At the same time they adopted a resolution which reads as follows:

"Resolved, That the delegates and alter-

names from each state shall nominate one person to represent the state on a committee to be known as the advisory committee on Legal Education of the Conference of Bar Association Delegates. The duty of the committee shall be to advise and co-operate with the Section of Legal Education and Admissions to the Bar of the American Bar Association to promote the adoption of the standards of legal education and admission to the bar, approved by this Conference, and encourage the improvement of legal education."

I might say for your general information that that committee has not functioned this last year. I was asked to present to the Bar Association Delegates, but was unable to do so by reason of the necessity of being here, a brief report of the temporary chairman of that committee, in which he said they had not functioned and that they would adopt as their report the report of the Section on Legal Education. Whether that committee will be continued I do not know. I take it from this resolution that it is a perpetual committee and will be continued. However, that has nothing to do with the Section on Legal Education, and I mention that as indicating that the Section on Legal Education assumed it to be the duty of that advisory committee to exert its activities in bringing about in the several states the adoption of the rule enunciated at the Washington Conference. On the other hand the committee evidently assumed that it was the function of the Committee on Education.

Some states have been quite active in bringing about the adoption of the rule. I speak more intimately of the state of Illinois, from which I come. At the last meeting of the Illinois State Bar Association, at Peoria, which was held in June, after a quite lengthy debate, we succeeded in bringing about the adoption of a resolution by the association which approaches very nearly to the letter of the Washington Conference rule. It embraces fully the spirit of that rule. It is a very controversial subject, especially among lawyers in general practice throughout the country, who are not in entire sympathy with law schools and colleges, and then, too, I find that some lawyers, who had the advantage of a college education and law school education, become controversial on the subject. Whether they desire to debate or not, I do not know, but they seem to think that the Washington rule interferes with the development of modern geniuses like John Marshall and Abraham Lincoln. Those are the two persons whom they generally cite as great examples of the unlettered side-wash, or the great men who have arrived without legal education. If the Bar Examiners, as you know, were willing to take every one that came before them as a John Marshall or Abraham Lincoln, there would be no need of legal education. However, this country has not developed a large crop of John Mar-

shalls and Abraham Lincolns, and they are not very conspicuous.

Speaking for myself, I did not have the advantage of either a college education or law school education. It has been my job for the last thirty years, however, to supervise twenty-five or thirty lawyers. I do not like to talk about myself, but merely as a matter of evidence, perhaps, the qualification of the witness might add more weight to what he has to say. It has been my experience uniformly that those students who come into my office as practicing lawyers after admission to the bar go the farthest who have had the best background, and where in several instances we have been sympathetic with the office boy, who has gone to night school, and then to night law school, and become a lawyer, I have yet to discover one of those young men, however diligent or ambitious he may have been, who has become adequate to meet a very severe test or higher requirement of our practice. They are honest and industrious, and after all those are basic qualities, which are very necessary to a successful practitioner, yet, when it comes to a more difficult problem, they cannot go the distance, and they fail.

It is a good deal like a story that Finley Dunne wrote a few years ago, about the experience of a politician who was alderman in the Fifth ward in Chicago. He went along very well, and his wife went along very well as the wife of an alderman. Later he was elected to represent his district at Springfield, and he functioned very well in that capacity, as did also his wife in the capacity of wife of a legislator. But afterwards he was elected to Congress, and the wife found herself in quite a different environment. And, as Mr. Dooley remarked, "Mary Ann was a good woman, and a strong woman, but she could not go the distance."

But, to enable every one, whatever his circumstances might be, to become a member of the bar and pass the rule as initiated in Illinois, and it is a rule there—Supreme Court rule No. 39—I say, to meet that situation, a Committee of the Chicago Bar Association on Legal Education collaborated with the several law schools throughout the state, and evolved the plan which was subsequently adopted by the Illinois State Bar Association. It departs, as I have said, from the rule pronounced in Washington Conference only in a little detail. For example, it requires that every applicant shall have had a high school education, which will admit him to college, on a parity with the requirements of the University of Illinois, or if he should not have had an opportunity for high school education, he shall submit himself to examination by the University of Illinois, and if he is able to pass the requirements for admission to that University, he is satisfactory to the Board of Bar Examiners.

As to the college course, he shall have had

at least two years of college; but, if that has not been done, the Board of Examiners has prepared a list of studies which is equivalent to that required by a well-ordered college, for the first two years. And the Board of Examiners take the examination of the student on those studies. Then, when it comes to the law school course, they require that he shall have had three years in a law school of accredited standing—and I will tell you in a moment what accredited standing means—that he shall have passed an examination, graduating from that law school, or, if he has not the opportunity to go to that law school, he shall pass examination by a Board of Examiners equivalent to that which would be required if he had passed through the law school. More than that, those studies must have been pursued for three years in the law school; or, if he is unable to go to a law school, then he must put in four years in an office, being examined from time to time by the lawyer in whose office he happens to be. There is also provision that, if he has studied part of the time in law school and part in offices, he shall have credit for the time in the law school. That was passed by the Bar Association in Illinois, and has been submitted to the Supreme Court of Illinois for enactment into a rule. We have great hopes that the Supreme Court at its forthcoming October session will make the recommendation a rule of that court.

We have in Illinois, as some of you know, a rule similar to that which obtains in New York, creating the Committee on Character and Fitness. It was my privilege to be one of the members of the first committee, which was constituted in the year 1917. We examined, during the two years which I sat on the committee, in the First Appellate Court District, some five hundred applicants for the bar. We were a little unfortunate at that time, in that most of the regular fellows had gone to the war just then, and we did not get quite as fine a class of students as we would have had, if the war had not been going on. However, it was our uniform experience that those who had the best preliminary education were the best qualified as to character and general fitness. It was perfectly obvious. A great many students came there from the night law school, and came in from the quiz masters, and they had "pâté de foie gras'd" them until they were trimmed up with the expectation that they would pass easily as to character and fitness.

I might tell you the story of a little colored boy whom we saw in this connection. We sent out a very inquisitive examination, and I commend to you the report distributed this morning at the Conference of Bar Delegates, the conference at which Mr. George W. Wickersham, of New York, was chairman, appointed to consider and report plans for the more thorough investigation of the moral character of candidates for the bar. That re-

port contains a questionnaire which is the same as that distributed by the states of New York and Illinois. The purpose of that questionnaire is to develop the antecedents and background of the applicant. Many other inquiries were made of candidates, such as these—whether he has ever been involved in litigation, or ever arrested—and this young negro was named Sam Jones. He came in there. He was a very pleasing personality, had plenty of assurance, and in addition to sending out this questionnaire, which he had answered regularly without attracting attention, we put in the Law Bulletin, which is our local news, also, the names of applicants, and invited suggestions as to the character of those men who had applied for admission and examination. And some other colored gentlemen had furnished us with a lot of information about this applicant, Jones. We began examining him about his qualifications, and then we asked him if he had ever been arrested, and he said: "Yes, I am the fall guy for 'Texas Jack.'" Now, Texas Jack was the name of the man who operated the gambling house in that vicinity, and every time he was raided and arrested, he would put this negro waiter up as the "fall guy." That had happened seven times. I asked him if he did not regard that as a criminal charge, and he said: "Oh, no, sah; I regards that as quasi criminal."

We had another young man come up before us, who answered that he had had litigation. He had been in a little controversy with his wife that came within the divorce statute. We asked him about that, and about some of the questions that he had answered which were not entirely satisfactory, and he said that one afternoon, as he sat in the lawyer's office where he was reading law, he had a telephone from a hotel on the north side. They wanted a lawyer immediately. Not being admitted to the bar, nevertheless, he thought he could qualify, and he rushed up to this hotel. The hotel keeper said to him on his arrival, "They want you up in room 10 on the second floor." He said he went up there, and opened the door, and walked in, and the lady said, "Take off your coat and put it on the bed," which he did. "Just then," he says, "my wife rushed in with a couple of cops, and I seen I was framed."

I tell these two stories as indicating the moral obliquity of those two men, and the important function of this committee. They had gotten by the Board of Law Examiners and came before our board. They did not get the license to practice law; they did not want a license to practice law, but they wanted a license to make a living without working; and I think that each one of us should urge upon our respective states the advantage of that kind of a committee.

In Illinois, more than in other places, except New York and Pennsylvania, we come up against more moral obliquity than in any

place in the country. It is urged by the proponents of the less rigorous application and lesser requirements that there ought to be a certain number of lawyers for the poor people. A great deal of time in my office is spent in straightening out complications of poor people, into which they have gotten through the advice of cheap lawyers. A poor man makes a poor investment when he hires a poor lawyer. In Chicago and other large cities we have Legal Aid Societies, and, beyond that, all of the reputable law firms are willing to help any poor people who come to the office seeking advice. So that there is nothing in the argument that we have to have a lot of poor lawyers to advise the poor people. But that is simply along the line of my own experience, as corroborative of the rule enunciated by this Association.

It has been the function of the committee during the past year to ascertain as far as possible the qualifications of the several law schools of the country, and as to whether they had certain standards which came within this resolution. I might say that we have had the benefit of a very efficient secretary and assistant secretary in obtaining that information. Mr. Sanborn and his brother have been most diligent and industrious in getting the information from all sources as to the relative standing of these law schools, and I shall ask him to report to you as to what has been done in that behalf.

There is, however, a little matter of business to which we must give our attention, and, while Mr. Sanborn is addressing you on the subject of what has been done, by our committee, along the line I have indicated, I suggest a committee be appointed to make nominations for the officers and directors for the ensuing year. These directors, or members of Council, are elected in series, and there are two gentlemen whose terms expire this year, Mr. Harlan F. Stone, of New York City, and Mr. Oscar Hallam, of St. Paul, Minnesota. Mr. John W. Davis, at present the President of the American Bar Association, was elected Chairman last year, and I was elected Vice Chairman, and by reason of the fact that Chairman Davis had that duty as President of the Association, I have acted as chairman. Mr. John B. Sanborn is secretary and treasurer. Eliminating myself, there is no reason why the other gentlemen should not be re-elected, because they have done good service. I do not intend to indicate what that committee shall do, but there is no prohibition in the by-laws against the re-election of any member of the Council or any officer. Is it the function of the chairman to select the committee?

Secretary Sanborn: The chairman appoints the committee.

Chairman Strawn: I will name Mr. Wm. D. Lewis, Mr. Hollis R. Bailey, and Mr. Charles G. Brock as the nominating commit-

tee. We will now hear the report of the secretary.

Secretary Sanborn: Mr. Chairman, the secretary has no independent report to make. The Council is supposed to make a report to the Section at the annual meeting. We have not cast this report into the final definite literary form which it will probably take when we put it in the proceedings. The Council has had meetings, and had one yesterday afternoon, and well on into the evening, and expects to have another meeting immediately upon the adjournment of the meeting of the Section. So the final and definite report will await that.

But I want to state in a general way what we have done on the present classification. You will remember that two of the tasks assigned to the Council of Legal Education by the resolutions of the American Bar Association two years ago were the calling of a conference on legal education, and the ascertainment of the law schools of the country which comply or do not comply with the standards laid down by the American Bar Association. That conference was called, as you know, and met in Washington a year ago last February, and that absorbed the energies of the then Council for that period. After that meeting the Council directed attention to the classification of the law schools. I may say that this is the only law school classification which is being attempted.

The Carnegie Foundation is publishing certain information which it gathers, but it does not contend that that is a regular classification. The Association of American Law Schools has certain standards for admission to its body, and schools which do not comply with those standards are not eligible to admission. Those standards are quite similar to those laid down by the American Bar Association, but not entirely. The last report of the Carnegie Foundation on Legal Education contains an interesting parallel column in comparison of the two, the Association of American Law Schools and the American Bar Association.

The first step which the Council took was the sending out of the questionnaire to all of the law schools of the country, which, on the information it had received, had any remote possibility of qualifying in the approved list. We sent to a large number of schools which make no claim now to comply. Upon that we found it necessary to send for further information in many cases, and frequently to write a number of letters before the information was obtained in the form that we wanted it, so that the task has been a slow one.

We had hoped to have the report ready, and to have gotten out some time ago at least a preliminary classification. This will have to be kept up to date when we get it out, and we shall have to keep checking the law schools, to see that there are no changes, or what changes there are. But we still have

some problems, and, of course, as in all those cases what I might call marginal schools cause the difficulty. There are a number of schools that we have no hesitancy in saying that they do comply, and a large number that we have no difficulty in saying that they do not comply, and those in the middle cause most of the work.

The standards laid down were four: First, the two-year study for entrance. I think I will state briefly under each one, without reading the four of them first, from the problems which we met there. The first problem under that, and it also applies to the second standard to a lesser degree, was the question of whether that must apply to all of the students in the school, and the Council has come to the conclusion that it must. For instance, certain schools, who have what are commonly denominated day and night students, have put into force or announced that they will put into force a two-year requirement for the day students, and it has been the feeling of the Council that the requirement must be had as to all of the class of students.

Another problem under that was the question of special students. Most of the law schools of the country—not all of them, but nearly all of them, as I suppose most of the colleges of the country do—admit as students those who do not completely meet the entrance requirements, either on the understanding that the students will make up the deficiencies within a limited time before they can be considered as candidates for a degree, or that they will not be considered as candidates for a degree at all, although they may remain in the school without making up the deficiency.

There are two classes of special students. On that we have required a statement as to the special students and the numbers of them from all of the schools, and in a number of cases, where it appeared to us that the number was excessive, we have told the school that they could not go into the approved class unless we had an assurance that the number would be kept down, and, while we have no fixed figure on that, we have been tentatively adopting as a standard, one quite similar to that of the Association of American Law Schools, which was a 10 per cent. standard figure over a period of recent years, although we hope to see that that is reduced in the future.

The question of what is a college might present sometimes some difficulties. Our Council has not defined a college. It has not issued any list, and does not now intend to issue a list, of the colleges of the country under standard A. What we have done is to require of every law school in the country, which is presenting what I might term an application for admission into the approved list, an enumeration of all of the colleges from which it has graduated students, and the number of those students, and we have

checked those lists, and, of course, there are available many standard lists of colleges, and I anticipate no particular trouble in that direction.

The second standard, B, requires a student to pursue a course of three years' duration. If they devote substantially all their working time to their studies, and a longer course if they devote only a part of the working time to their studies, the first question which would arise under standard B is: How do you know what students are devoting their entire time, and what students are devoting a part of their time? Of course, we have not made any investigation of all of the individual students in the law school, to find out whether John Smith is clerking in a store evenings, or what Sam Jones is doing. We have adopted what I believe are considered the ordinary tests, the division between those schools or parts of schools which arrange their class room hours so that the student obviously cannot engage in any independent occupation, and those who arrange the hours with that purpose in view. That is, the colloquial term is the "day school" and the "night school," which is, of course, not accurate, but it illustrates the point and the method on which we have worked.

We have not defined what is the equivalent, and I don't know—I assume that we will have—I don't see any necessity of defining it. Certain schools have presented to us a schedule stating that, when we have found that they comply with classification A, by requiring two years of all their students, where they have part-time students, they have asked for a ruling that that is the equivalent. Without exception, except one school, as to which we are still looking for information, we have decided that none of those courses are the equivalent of the three years for the entire time student. We have not stated, and I doubt if it is the policy of the Council to define beforehand what that would be, as in the other standards. I will say that in one case, for instance, we have a school which makes the privilege of doing the work—that is, taking as much work as the full-time students—depend upon the grades which the part-time students get. If they get a certain grade, they can take as much time, or put in as much work, as the full-time students. We have not considered that a compliance with standard B.

The next one, C—it was intended to provide an adequate library available for the use of the students. We have not defined what is an adequate library. The Association of American Law Schools has required 5,000 volumes as a minimum. I think we have approved certain libraries which are under 5,000, taking into consideration the number of students in those schools and the character of the reports which they have presented. I will say that we have asked for a detailed list; that is, the number of

general classes of the volumes in the library, as well as the numbers. And the word "available," we think, was obviously used to indicate a library not necessarily owned by the school. There are some schools which have what we consider entirely adequate working arrangements with some public law library, whereby their students can use the books there, and we have considered that available for the use of the students.

The fourth standard was that among its teachers a sufficient number of the teachers in the school should devote their entire time to the school, to insure actual personal acquaintance with the whole body. The Association of American Law Schools has required three as a minimum on the faculty. We have not defined that number; we have considered the question on the different schools. We have required a report from each school of the names of the faculty, and the time that they gave to the work, and so on, and that is a question which, if it arises on a particular school, we will have to consider on an investigation of the school itself.

And we have not defined definitely, although we have under consideration some definition of, what is a full-time teacher of the law, as distinguished from part-time teacher. Of course, it is obvious that some of the outside work which some of the members on a law school faculty do is not commonly considered as removing them from the category of full-time teachers in a law school under the ordinary practices of a school, and that question also requires special consideration.

The Council was directed, on ascertaining the schools which comply and those which do not comply with the standards laid down by the American Bar Association, to make this information available, so far as possible, to intending law students. Of course, as soon as we have a list, that list will be published, published in such law journals as want it, and will be given as a matter of general public information.

But the Council feels that there is something more meant by that direction of the American Bar Association than merely publishing a list of the law schools in the various law school journals, and in such papers as desire to take it. And the Council has under consideration plans for getting this information to the prospective law students. We appreciate that that is a difficult task, and we have no definite plans for that; but we feel that one of the things which is required by that direction is that, where we can, we will get into the hands of those who are thinking of studying law, and before they begin to study law, of course, because the standards imply that they shall study in college for two years before they begin to study law—get into their hands, I say, not only the list of the law schools, but some explanation of why the American Bar Association believe that

the proper preparation for the study of law is the two years in college, and the proper preparation for practice is at least three years in an approved law school.

You are, of course, familiar with the methods used by the commercial law schools, or, at least, some of the methods, in getting their information into the hands of prospective law students, not only by advertising in the magazines, but by personal solicitation. Some of the commercial law schools—perhaps all of them do, but, at least, I know some of them do—employ agents on commission to get students for them, and that is the kind of competition the American Bar Association and Council are up against. So, if we simply sit still and expect these law students to find out what our attitude is, we will not get as far as we ought to get, certainly, in competition with the law schools and the correspondence law schools, which send out literature showing students that entirely adequate preparation for the bar, and not only for practice at the bar, but large fees, can be obtained by taking the law course in their school.

There is one other point which I will mention briefly, although I have not the entire data on that. We are collecting the information as to the action of various state Bar Associations on the subject, and this has been discussed at many Bar Associations, it has been indorsed by a number of the Bar Associations, very few of the Bar Associations have refused to indorse it, many of them have indorsed it entirely, some with slight modifications. The most interesting, in a way, and possibly curious, modification which I have discovered is in Nevada. You will remember, at least, those of you who were at the Washington Conference, and I think the same is true at the meetings of the Bar Association, that the fight has been around the two years of college. That has been the point of attack upon its standard. Most people have been willing to say that they ought to go to law school, but they have, some of them, objected to saying that they ought to go to college for at least two years before they go to law school. The Nevada Bar Association, however, indorsed the recommendation of two years in college. It is not prepared to indorse the recommendation for a law school, because Nevada has no law school, and I think also—I believe—they say that the other law schools are situated at some distance from Nevada, although, of course, there are, at no great distance, law schools. But the report of the Council will contain some information on this point, and probably will bring it down as far as we can.

Chairman Strawn: Are there any remarks to be made, gentlemen?

Mr. Hollis R. Bailey: I would like to ask Mr. Sanborn if any suits have yet been brought or threatened in the nature of black-listing or anything of that sort.

Mr. Sanborn: I have not heard of any.

we have been a little discreet about putting out this list, and I might confide to you that, if and when we do put out the list, and classify them in the different classes, we shall preclude any action over and against the members of the Conference, even though it might obtain as against the Council, by saying that on the evidence submitted we decide so and so, thereby leaving the door open to receive further evidence. We do not anticipate trouble on that line.

Mr. Bailey: One question I wanted to ask at the close of your address, Mr. Chairman. Is it or is it not true in Illinois that the regular graduates in the Illinois law schools are admitted on certificate without examination by the Board of Examiners?

Chairman Strawn: No; every student has to pass the examination.

Mr. Bailey: It may interest the chairman to know that what is said in the Bible about the seed falling on stony ground and some of it on fruitful ground—in Massachusetts, I have just been setting up a Committee on Character in each of the counties, thinking that we might divide the work up a little bit, and not be so onerous for our committee. These committees are just getting ready to function, and I will say that it was very gratifying to me to find that the Bar, with few exceptions, were willing to serve on those committees as a matter of public duty and public service.

We have sent out a questionnaire to each successful applicant modeled almost exactly after the Illinois and New York questionnaire. When I get back to Boston next week those answers will be distributed to the Committees on Character, with other information. So that we are trying to do what has been done in Illinois and in New York, and hoping that the good results will follow which we think will follow from that mode of procedure.

We have had something like it, but nothing thorough, nothing like what we are now doing. The Supreme Judicial Court, last winter, approved a rule authorizing the Bar Examiners to appoint these committees, and require the applicants to appear before the committee on demand, and to answer questions. So we are trying to experiment, and hope it will be of great help.

Mr. James N. Frierson: Both at the Conference of Bar Association Delegates, and here, I would like to state the difficulties which confront us in South Carolina, and many of the other Southern sections. I am a college man myself, and a graduate of the Columbia Law School, and I have as high an ideal and desire for the education of the bar as any man in the American Bar Association. I am the Dean of a State University Law School. In that State University we had in the old days many of our foremost lawyers educated. Then, after requiring three years of study for the law, they dropped

down to having nothing but a good English education; and when I went back to South Carolina, a few years ago, the situation was that, if you could write in fair English, you could be admitted to the bar and practice in the Supreme Court.

Under the late Professor Moore and his leadership, we got the Legislature, in 1910, to adopt an act making the requirement two years. Our Board of Examiners have not been employees of the state, but they have been the foremost lawyers of the state, and have served at great sacrifice of time, with practically nothing but their expenses—\$175 a year for the two examinations; nothing for compensation.

Under that we have laid a fairly strong foundation for that act, and the bar in general is in sympathy with that undertaking. I attended the Washington Conference, and, in spite of the fact that I was misquoted from one end of the country to the other, I spoke in favor of the plan proposed, as those of you who were there will remember. But we prefer to have the substance rather than the shadow, and we shall work toward classification under class A, though we prefer to give the state of South Carolina the first consideration. For example, last February, there were those who felt that we ought not to make any representation to the court toward the adoption of the Washington standards for the reason that there was no chance in the world of their adoption. I said that my judgment is that, instead of passing it up entirely, let us adopt the Washington program, and make it gradually applicable. I explained to them that the standards adopted in Washington were standards towards which we were to work. It may take fifteen years in my state. They doubted the wisdom of my suggestion, but, after I explained the situation, they went on record in the Bar Association, without dissenting vote, that the Legislature be memorialized to advance the requirement for law education from two years to three years. That was passed by unanimous vote, and a committee appointed to put it through the Legislature, and I believe it can be done.

But there was always a danger of having a relapse occur. If you try to go too fast, that is what you will have. The general standard of classification will be: Does the school come up to the numbers enumerated, to the standards set forth, by the Conference in Washington, or does it not? Is that correct?

Chairman Strawn: Yes; that is the general proposition.

Mr. Frierson: This year, in the State University, we have established one year of college course. Mind you, the state act was high school education, and in 1908 the high school education had no very complete significance. It is getting so now that we say that a high school training means that you

must have fifteen entrance points. Many of our men are college graduates, and many of them have had more than one year; but our minimum for entrance this fall is one year of college work. Under that we will be stigmatized, and perhaps at the end of two years we will meet another bar that will be put up; but, as I said before, where you are after the substance, rather than the shadow, your efforts will not be in vain, and we are all working toward one end.

Chairman Strawn: What the speaker has just said demonstrates forcefully the efficacy of the work done thus far. It has been an example to which they have all given heed, in a realization which they expect to have some time or other. We did one other thing that I might mention, in Illinois—not that I like to talk about my own state. After they have passed their entrance examinations, and after they have gone to the Committee on Character and Fitness, and after they are all right, and get their licenses from the Supreme Court, we had each class go to the Supreme Court at Springfield, and one of the Justices of the Supreme Court addressed the class, giving them advice in regard to the responsibility of the profession. Then we give them a luncheon, after which some distinguished member of the bar makes an address, so they start off with some appreciation of the fact that the license to practice law means something; whereas, hitherto, that was not done, and they got their licenses by mail. Some objected to the expense of going to the Capitol, but we said that, if they could not afford the expense of going to the Capitol, they were not well fitted to start out in the practice of law.

Mr. Charles Hepburn: Mr. Chairman, it may give aid and comfort to a good cause to bear testimony to the work of the Indiana State Bar Association. Under our Indiana State Constitution of 1851, a Constitution which we still have with us, any person of good moral character, being a voter, is entitled to practice law in all the courts of justice in Indiana. Mr. Bailey pointed out, in his interesting talk on Legal Education, that New Hampshire had a statute in almost those terms.

Mr. Bailey: It did not last long.

Mr. Hepburn: It was before 1851, I think, and we caught the contagion from New Hampshire, and put it into our Constitution, and there it is, and we cannot get rid of it. At the Indiana Bar Association meeting in 1922, which was in July of that year, the resolutions of the American Bar Association of October, 1921, and of the Conference of Delegates at Washington in 1922, were reported in full to the Indiana State Bar Association. It was pointed out that we owed a debt of gratitude to the older members of our bar, many of whom had never been in college. It was pointed out that the times had changed, and that 1922 was very different from 1854,

and then it was moved that we approve the resolutions of the American Bar Association. That vote passed unanimously; there was not a dissenting vote, the Constitution of the State of Indiana to the contrary notwithstanding. That is, the Indiana State Bar Association, in 1922, went on record unanimously in full meeting, at the fullest session of the Bar Association in that year, as recommending two years of study in college and three years of full-time study in a law school requiring three years to graduate, with graduation therefrom; also every provision as to the library and as to the number of teaching staff. There were members of the night schools in Indiana, sitting in the audience, but there was no dissenting vote. It was so surprising that the Committee on Law Education in Indiana decided to test it out again this year also. At the meeting of the Indiana State Bar Association held at West Baden Springs in July, 1923, a resolution was again presented in terms to the Indiana State Bar Association. There was one man, formerly of Indiana, and who had strayed into Illinois, and who had come back. He started to make a speech, which apparently was in opposition. But it came to nothing, and once more the Indiana State Bar Association expressed its approval without a dissenting vote.

Now, Mr. Chairman, I think that that is a good deal of encouragement. I think that we can get the support of our organized State Bar Association in a very effective way. We cannot, in Indiana, change the Constitution; we can never do that, to get rid of the bolshevik provision of 1851. We cannot pass a statute, but from all over the state I hear the lawyers saying that they are in favor of this requirement for admission to the bar, and the moral influence will go very far.

Then I have discovered another thing which I think is encouraging. There are some very excellent schools, one or more, which have a provision of this kind. If the applicant for admission to the law school has had one year of college and is twenty-two years of age or over he may become a candidate for the LL.B. degree. I am not sure how many schools there are that have that provision. Perhaps Mr. Sanborn can tell me, but there is one very excellent school that has that side door entrance to the LL.B. degree. A student who had had one year of college, which was a good record, and only one, was sent a letter from the secretary of one of the schools, about this side door entrance, and said: "Why should I go to Indiana University Law School, which requires two years of college, if I have to spend one more year in college before I enter the law school, when I can go to this excellent school, which is as near me as your law school, and get an LL.B. without going to college?"

I wrote him a four or five page letter, and apparently he read it all, pointing out

how the lawyer of to-day, as was stated by a Wisconsin judge, a few years ago, cannot deem himself to be a lawyer, learned in the law, if he knows only what is in the law books. He must have a broad knowledge of history, of economics, of sociology, of English, of English literature, and he cannot get that in one year in college. And I laid it before him and asked his advice: "What do you think about it? Will you be qualified as a lawyer if you content yourself with what you now have, with some ten hours of history, with no English literature, no economics, no sociology? Will you be content to regard yourself as a lawyer, capable of taking up the duties of a lawyer?" He wrote back that he had changed his mind, and would take one additional year in college, in order to equip himself for admission to the bar.

If our committee will emphasize the fact that under the rules of the American Bar Association, under the rules of the Washington Conference, under the rules of the State Bar Association, the minimum time for preparation for admission to the bar has become five years, two years in college and three years of full-time professional study in a law school, and if we can drive that home to the young men who are thinking of studying law, there will be a fine response, just as we see in the good state of Indiana with its bolshevik provision, a fine response in that direction. I think the moral influence of those two points can be made very effective all through the United States.

Chairman Strawn: It is very encouraging to know the influence of this movement in other states, as reflected by the better element. I regret exceedingly that the state of Indiana has to labor under that antique Constitution. I know that many of the difficulties which apply in Illinois under our Constitution, we tried to change last year, but the dear people did not agree with us. So I suppose, Mr. Hepburn, you will have to chafe under the criticism for some years that a lawyer in Indiana has to be of good moral character and run twice around the court house to get the atmosphere.

Mr. Hepburn: I think it is a correct statement of the fact that a constitutional lawyer in Indiana is always under criticism.

Mr. John G. Buchanan: I was pleased to know that a certain requirement, which I have noticed in the requirements of the American Law School Association, does not appear in the requirements for approved law schools which have been mentioned in Mr. Sanborn's report. But there is one rule which seems to me rather argumentative than effective, which is that a law school shall not be approved for its day school, which requires two years of college preparation, when for its night school it makes no such requirement. It seems to me that the day school under those circumstances should be approved, and the night school should be dis-

approved. I suggested that to my friend Dean Jones, and asked him the reason for the discrimination, and he said that there was a good reason for it, but he said it would take too much time and he would tell me later. Maybe he will tell me now, unless Mr. Sanborn does.

Mr. Sanborn: I am very glad of the opportunity, Mr. Chairman, to state the reasons which, as I understand it, have moved the Council to take the position which it did. One of those reasons is that it is possible, and we have certain instances in mind, although I do not want it taken as applying to all the schools by any means—it is entirely possible, in connection with the suggestion which you have made, to have a school put in the two years college requirement, or three years, and so on, for its full-time, and put in no requirement at all for its part-time students; and to get the part-time student by advertisement—perhaps not public, but understood—that that school was approved by the American Bar Association. And possibly, without intending it, that idea would easily get abroad, that the approval of the American Bar Association extended to the part-time as well as the full-time school. Another reason, which I think moved the Council, although I think the fundamental reason of all is that this first requirement, and perhaps you feel we are too rigid on it, but I do not think we would have authority to depart from it, if we wanted to—but another reason which justifies the student is that we feel that the American Bar Association has laid down these principles. It has asked the law schools of the country to come up to these principles, at least, and that this is the minimum.

Now a law school says: "We are willing to come up to the principles for half of our students, or part of our students, but we are not willing to come up to those standards as to the rest of them." And it seems to us that the standards of the American Bar Association are not being met, and that a school ought not to say that they are approved by the American Bar Association, even as to part of them, unless they are willing to go as far at least in the cause of Legal Education as the American Bar Association says they ought to go. The American Law School Association, as in standard B determines what a part-time school must do. It must comply with it. And there are no exceptions to that here, but B is there, and we are prepared, of course, and entirely willing and glad, to classify a school which meets these requirements for part-time students, if it meets all of them, and it seems to us, as I say, that if a school wants to be in the first class, it ought to be willing to go that far at least in the direction of higher standards. Chairman Strawn: Are there any other remarks?

Mr. Bailey: It may interest the meeting, for just a minute, to listen to a tale of woe.

and possibly degradation which a sovereign state of the United States may get into. The Legislature of Massachusetts still clings to the enactment that the Bar Examiners must not require more than two years in the evening high school as its general educational requirements. That means very little more than a grammar school. Now, we are having a large number of applicants coming with that amount of qualification, and the state is being flooded with people who are affording cheap education to cheap lawyers. The Y. M. C. A. in Springfield, Mass., has started an evening law school. The Y. M. C. A. in Worcester, Mass., has started up an evening law school. Those are four-year courses now, with three nights in the week for instruction. In Boston, the Y. M. C. A. proper, or the Northeastern, as they call it, has an evening law school with several hundred students. Then the Suffolk Law School has recently built a very expensive building in which they have their evening law school and four-year course three nights in the week. And then we have the Portia Law School, and I am told this year they will have four hundred or five hundred or six hundred young women taking the course there, and getting ready to come to worry the Bar Examiners at the examination. At our last examination in June we had 614 applicants, men and women. I think 37 or 38 per cent. of those passed, and the rest of them failed. Oftentimes we reject two-thirds but it is an awful state of affairs; and when I hear the gentleman from Illinois tell about the importance of general education, it is a great inspiration.

A Member: May I ask what percentage of girls passed your examination?

Another Member: The witness need not answer.

Mr. Henry C. Jones: I want to say, Mr. Chairman, that the Iowa State Association, at its general meeting, with an attendance of about 150, took up the American Bar Association recommendations and indorsed them without any argument, by a large majority. And I understand that at the forthcoming special session of the Iowa Legislature, which meets in December, a code revision bill will be introduced by the Code Revision Committee, carrying out in detail the recommendations of the American Bar Association.

Chairman Strawn: That is very encouraging. The next thing on the program is the report of the treasurer. I suppose the amount in the treasury is insignificant, but the report may be important.

Mr. Sanborn (Treasurer): Merely this, that the treasurer of the Section never has any funds and no function to perform, because the treasury has no disbursements to make. The officials of the American Bar Association, the treasurer, Mr. Wadhams, disburses the only funds necessary for this work, as he does all other funds, from the treasury of the American Bar Association.

We get an appropriation, and I think we have expended at least all of it.

Chairman Strawn: The next matter on the program is the report of the Committee on Nominations for officers and Council for the ensuing year.

Mr. Lewis: Mr. Chairman, your Committee on Nominations reports the following nominations:

For Chairman, Silas H. Strawn.

For Vice Chairman, Harlan F. Stone.

For Secretary-treasurer, John B. Sanborn.

For Members of the Council, Oscar Hallam and Andrew A. Bruce.

Mr. Brock: I move that the report be accepted and adopted and that the secretary be instructed to cast the ballot for all the gentlemen named by the Nominating Committee.

The motion being seconded, the question was put, and the motion prevailed without dissent, and the secretary cast the unanimous ballot as directed.

Chairman Strawn: The secretary has cast the ballot. Is there anything else to come before the meeting?

Mr. Sanborn: May I make one more announcement? As I stated, the Council will meet at the conclusion of this meeting, and there are one or two schools where they have spoken to me and desire to present some matters before the Council, and I make the announcement in case there are persons present who desire to make other recommendations or requests of our Council.

Chairman Strawn: In other words, if there are representatives of schools here, the Council is receptive to suggestions. The meeting of the Council will follow this meeting. If there is no other business, I declare this meeting adjourned.

Thereupon at 4:10 p. m., upon motion duly made, seconded, and passed, it was voted to adjourn, *sine die*.

The following is the report of the Section on Legal Education to the American Bar Association, submitted Thursday morning, August 30, 1923, at the meeting of the American Bar Association in Minneapolis, Minnesota:

Mr. Silas H. Strawn: Mr. Chairman, ladies and gentlemen, the resolutions adopted by this association at the Cincinnati meeting in 1921, establishing the standard for legal education and requirements for admission to the bar, also carried with them a direction to the Council on Legal Education and Admissions to the Bar to prepare and distribute a list of those schools which complied with the standards, as well as of those schools which did not comply with the standards.

The resolution also provided that the Presi-

dent of the Association and the Council on Legal Education should co-operate with the several local and state Bar Associations to urge upon the constituted authorities throughout the several states the necessity or the wisdom of adopting these standards.

On account of the large number of law schools throughout the country, their different needs and the different requirements for admission to the schools and for graduation, the work of compiling this list and of classifying the several schools has been a very considerable one. The secretary of the Council has been diligently engaged for the last year and a half in preparing the list or in getting the information from which the council might come to a conclusion as to those schools.

I am very happy to report that that information has been quite completed, and that within a very short time a list of these schools will be prepared and distributed, not only among the intending law students, but also among the Association members generally.

The Council desires to express its appreciation of the hearty co-operation of the several schools in this work.

As to the action of the several state and local Bar Associations, we have also been greatly assisted by the enthusiasm manifested in those associations.

I might cite two conspicuous examples of the good will of the state Bar Associations. The state of Indiana is one. Doubtless those of you who are familiar with the Constitution of the state of Indiana know that in 1851 the people of that great state provided in their

Constitution that the only requisite for admission to the bar was that the applicant should have a good moral character, to be established on the say-so of the deponent. Some wag also added that it should be required, or that they did require down there, that the applicant, in addition to having a good moral character, should run twice around the court house in order to get the atmosphere.

Of course, none of the lawyers in Indiana now present are responsible for that constitution. The State Bar Association of Indiana has on two occasions adopted a resolution approving the standards of the American Bar Association, and the State University of the state of Indiana complies with those standards.

The state of Illinois, through its Bar Association, and at the June session this year, adopted resolutions which substantially conform with the standards of the American Bar Association, and I have been informed by one of the members of the Supreme Court, upon which rests the responsibility of promulgating a rule—because in our state it is a rule of the Supreme Court—that those resolutions will be incorporated in the rule at the next session of the court, which convenes in October.

That is about all, Mr. Chairman, that we have to report at this time, except that when the time comes we shall have to ask the executive committee for sufficient money with which to distribute this information among the law students of the country.

President Pro Tem. Severance: The report requires no action and will be received.

Registration in Law Schools—Fall of 1923

NOTE: Registration figures were obtained in October, 1923. Figures showing the total registration in the fall of 1922 have been added in the last column for purpose of comparison. The law schools are arranged alphabetically by states. Some of the schools in the list have lengthened their course, and many of the schools have been recently organized, so that this table does not show in every instance the number of years of study that is now required. The table does not include pre-legal students.

SCHOOL	1st Year	2nd Year	3rd Year	4th Year	Summer	Graduate	Special	Unclassified	Duplicate	Total—1923	Total—1922
Birmingham School of Law, Birmingham, Ala.....	15	12	11	—	—	—	—	—	—	38	46
University of Alabama Law School, University, Ala...	73	44	36	—	—	—	17	—	—	170	142
University of Arkansas Law School, Little Rock, Ark..	35	20	—	—	—	—	—	—	—	55	—

SCHOOL	1st Year	2nd Year	3rd Year	4th Year	Summer	Graduate	Special	Unclassified	Duplicate	Total—1923	Total—1922
University of Arizona Department of Law, Tucson Ariz.	28	28	18	—	—	—	12	—	—	88	70
University of California, School of Jurisprudence, Berkeley, Cal.											
Three-Year Curriculum	75	42	39	—	—	1	8	}	—	320	324
Four-Year Curriculum	58	37	35	27	—	—	—				
St. Vincent School of Law, Loyola College, Los Angeles, Cal.	54	18	16	9	—	—	20	—	—	117	66
University of Southern California Law School, Los Angeles, Cal.	120	138	141	—	—	7	—	—	—	406	435
Southwestern University Law School, Los Angeles, Cal.	65	45	35	20	—	—	—	—	—	165	—
Hastings College of Law, San Francisco, Cal.	29	34	39	—	—	—	14	—	—	116	114
University of St. Ignatius Law School, San Francisco, Cal.	60	51	46	25	—	—	3	—	—	185	175
Y. M. C. A. Law School, San Francisco, Cal.	—	—	—	—	—	—	—	—	—	—	49
University of Santa Clara Institute of Law, Santa Clara, Cal.	25	24	10	—	—	—	—	—	—	59	—
Leland Stanford, Jr., University Law School, Stanford University, Cal.	—	—	—	—	—	—	—	—	—	†283	204
University of Colorado Department of Law, Boulder, Colo.	46	37	22	—	—	—	—	—	—	105	104
University of Denver School of Law, Denver, Colo.	53	53	60	—	—	—	—	—	—	166	145
Westminster Law School, Denver, Colo.	57	33	17	—	—	—	3	—	—	110	106
Hartford College of Law, Hartford, Conn.	17	11	9	—	—	—	18	—	—	55	56
Yale Law School, New Haven, Conn.	116	103	102	—	—	12	—	—	—	333	274
Catholic University of America Law School, Washington, D. C.	—	12	18	—	—	—	—	—	—	30	71
Georgetown University Law School, Washington, D. C.											
Day School.	71	65	60	}	—	58	54	—	—	1051	1205
Late Afternoon Session	244	271	228								
George Washington University Law School, Washington, D. C.	310	267	221	32	—	32	65	—	—	927	925
National University Law School, Washington, D. C.	260	194	186	44	—	—	—	—	—	684	650
Y. M. C. A. Law School, Washington, D. C.	15	23	12	—	—	—	7	—	—	57	60
Howard University Law School, Washington, D. C.	50	33	33	—	—	—	8	—	—	124	125
John M. Langston School of Law, Washington, D. C. .	24	10	8	—	—	—	3	—	—	45	40

†Totals not itemized.

SCHOOL	1st Year	2nd Year	3rd Year	4th Year	Summer	Graduate	Special	Unclassified	Duplicate	Total—1923	Total—1922
¹ Knights of Columbus Evening School, Washington, D. C.....	85	65	—	—	—	—	—	—	—	150	—
Washington College of Law, Washington, D. C.....	46	59	50	—	—	² 16	7	—	[*] 4	174	171
John B. Stetson University Law School, DeLand, Fla.	21	27	29	—	—	—	—	—	—	77	—
University of Florida Law School, Gainesville, Fla..	68	60	38	—	—	—	16	—	—	182	190
University of Georgia Law School, Athens, Ga.....	67	36	25	—	—	—	—	—	—	128	131
Atlanta Law School, Atlanta, Ga.....	75	50	—	—	—	2	—	—	—	127	125
Lamar School of Law, Emory University, Atlanta, Ga.	28	14	17	—	—	—	2	—	—	61	64
¹ People's National University Law School, Atlanta, Ga.	7	10	—	—	—	12	2	—	—	31	—
Mercer University Law School, Macon, Ga.....	25	30	20	—	—	—	—	—	—	75	64
University of Idaho Law School, Moscow, Idaho...	34	22	14	—	—	—	6	—	—	76	65
College of Law, Illinois-Wesleyan University, Bloomington, Ill.....	50	33	34	—	—	—	2	—	—	125	106
Chicago Law School, Chicago, Ill.....	134	36	41	9	—	11	—	—	—	231	195
DePaul University Law School, Chicago, Ill.....	85	90	110	80	—	8	10	—	—	383	357
John Marshall Law School, Chicago, Ill.....	130	73	43	—	—	—	—	—	—	246	156
Loyola University Law School, Chicago, Ill.....	60	61	36	17	—	—	—	—	—	180	132
Mayo Federated Colleges, College of Law, Chicago, Ill.	—	—	—	—	—	—	—	—	—	—	92
Northwestern University Law School, Chicago, Ill.	67	48	32	33	—	—	8	—	—	188	197
University of Chicago Law School, Chicago, Ill.....	218	122	119	—	—	4	—	—	—	463	470
¹ Decatur College of Law, Decatur, Ill.....	7	4	—	—	—	—	—	—	—	11	—
University of Illinois Law School, Urbana, Ill.....	111	46	36	2	—	—	5	—	—	200	143
Indiana University School of Law, Bloomington, Ind.	51	37	35	—	—	2	12	—	—	137	226
Law Department, Tri-State College, Angola, Ind.....	13	9	—	—	—	—	1	—	—	23	—
Indiana Law School, Indianapolis, Ind.....	32	31	33	—	—	—	1	—	—	97	—
Benjamin Harrison Law School, Indianapolis, Ind.	—	—	—	—	—	—	—	—	—	—	80
University of Notre Dame, Law School, Notre Dame, Ind.	108	85	56	—	—	—	5	—	—	254	—
Drake University Law School, Des Moines, Iowa	33	41	29	—	—	—	—	—	—	103	116
Iowa State University Law School, Iowa City, Iowa	81	63	48	—	—	—	—	—	—	192	223

¹ New school—classes not yet complete.² Including 6 Patent Law students.^{*}To be subtracted.

SCHOOL	1st Year	2nd Year	3rd Year	4th Year	Summer	Graduate	Special	Unclassified	Duplicate	Total—1923	Total—1922
University of Kansas Law School, Lawrence, Kans..	41	31	34	—	—	1	—	17	—	124	151
Washburn College School of Law, Topeka, Kans.....	23	20	8	21	—	1	—	—	—	73	82
State University College of Law, Lexington, Ky.....	31	22	18	—	—	—	3	—	—	74	106
Jefferson School of Law, Louisville, Ky.....	70	40	—	—	—	—	1	—	—	111	103
Central Law School, Simmons University, Louisville, Ky.....	3	3	2	—	—	1	3	—	—	12	—
University of Louisville Law Department, Louisville, Ky.....	25	14	8	—	—	—	6	—	—	53	40
Loyola University Law School, New Orleans, La.	113	47	61	—	—	18	10	—	—	249	218
Tulane University Law School, New Orleans, La.	38	15	18	—	—	—	8	1	—	80	67
University of Maryland Law School, Baltimore, Md.	233	154	165	—	—	—	—	—	—	552	557
Boston University Law School, Boston, Mass.....	155	284	242	—	—	9	47	—	—	737	786
Northeastern University School of Law, Boston, Mass.	411	224	125	96	—	—	—	—	—	856	660
Portia Law School, Boston, Mass.	112	96	56	57	—	—	10	—	—	331	306
Suffolk Law School, Boston, Mass.....	735	430	325	195	—	—	—	—	—	1685	1480
Harvard University Law School, Cambridge, Mass.	491	265	246	45	—	17	36	—	—	1100	1019
Northeastern University School of Law, Springfield, Mass.....	51	17	7	8	—	—	1	—	—	84	69
Northeastern University School of Law, Worcester, Mass.	43	23	16	9	—	—	—	—	—	91	99
Detroit College of Law, Detroit, Mich.....	227	173	200	—	—	—	9	—	—	609	519
University of Detroit Law School, Detroit, Mich.....	105	79	73	—	—	24	2	—	—	283	255
University of Michigan Law School, Ann Arbor, Mich.	210	131	129	4	164	—	4	—	—	642	419
Minnesota College of Law, Minneapolis, Minn.....	217	116	97	—	—	—	—	—	—	430	347
Northwestern College of Law, Minneapolis, Minn..	61	52	49	35	—	—	—	—	—	197	205
University of Minnesota Law School, Minneapolis, Minn.	121	85	71	—	—	—	—	—	—	277	272
Y. M. C. A. Law School, Minneapolis, Minn.....	19	8	9	4	—	—	—	—	—	40	—
St. Paul College of Law, St. Paul, Minn.....	135	102	76	51	—	2	—	—	—	366	273
¹ St. Thomas College of Law, St. Paul, Minn.....	30	—	—	—	—	—	—	—	—	30	—
University of Mississippi Law School, University, Miss.	50	32	28	—	—	—	—	—	—	110	74

¹ New school—classes not yet complete.

SCHOOL	1st Year	2nd Year	3rd Year	4th Year	Summer	Graduate	Special	Unclassified	Duplicate	Total—1923	Total—1922
University of Missouri Law School, Columbia, Mo....	39	43	27	—	—	—	—	—	—	109	98
Kansas City School of Law, Kansas City, Mo.....	316	189	137	83	—	—	—	—	—	725	525
Y. M. C. A. Law School, St. Joseph, Mo.....	36	9	9	10	—	—	—	—	—	64	42
Benton College of Law, St. Louis, Mo.....	49	37	32	24	—	16	3	—	—	161	161
City College of Law & Finance, St. Louis, Mo.....	—	—	—	—	—	—	—	—	—	—	100
St. Louis University Institute of Law, St. Louis, Mo.	74	96	111	59	—	22	—	—	—	362	416
Washington University Law School, St. Louis, Mo...	31	70	62	—	—	—	28	—	—	191	212
University of Montana Law School, Missoula, Mont...	19	19	14	—	—	—	—	6	—	58	74
University of Nebraska Law School, Lincoln, Neb....	91	40	61	—	—	1	5	—	—	198	201
Creighton University Law School, Omaha, Neb.....	50	30	40	—	—	—	3	—	—	123	136
Creighton University Night Law School, Omaha, Neb.	59	20	16	6	—	—	—	—	—	101	—
University of Omaha School of Law, Omaha, Neb....	47	19	18	12	—	—	8	—	—	104	93
New Jersey Law School, Newark, N. J.....	532	207	153	—	—	—	—	—	—	892	565
Albany Law School, Albany, N. Y.....	137	106	87	—	—	—	2	—	—	332	302
Brooklyn Law School, Brooklyn, N. Y.....	896	447	367	—	—	35	7	—	—	1752	1128
Buffalo Law School, Buffalo, N. Y.....	132	93	68	—	—	—	—	—	—	293	223
Cornell Law School, Ithaca, N. Y.....	69	26	23	—	—	—	5	29	—	152	105
Columbia University School of Law, New York City..	228	183	213	—	—	4	17	—	—	645	651
Fordham University School of Law, New York City..	602	428	389	—	—	—	14	—	—	1433	1242
New York Law School, New York City.....	390	359	203	—	—	—	—	—	—	952	745
New York University Law School, New York City..	750	526	361	—	—	34	—	—	—	1671	1424
Syracuse University Law School, Syracuse, N. Y....	42	52	62	—	—	—	2	—	—	158	212
University of North Carolina Law School, Chapel Hill, N. C.....	66	41	17	—	—	—	—	—	—	124	111
Trinity College Law School, Durham, N. C.....	—	—	—	—	—	—	—	—	—	—	20
Judge Pell's Law Class, Raleigh, N. C.....	45	33	—	—	—	—	—	—	—	73	—
Wake Forest College Department of Law, Wake Forest, N. C.....	22	8	20	—	—	—	45	—	—	95	160
Wilmington Law School, Inc., Wilmington, N. C...	6	4	—	—	—	—	—	—	—	10	12
University of North Dakota Law School, Grand Forks, N. D.....	24	11	11	—	—	—	4	—	—	50	38

* Two-year college requirement cut down registration from about 100.

SCHOOL	1st Year	2nd Year	3rd Year	4th Year	Summer	Graduate	Special	Unclassified	Duplicate	Total—1923	Total—1922
Ohio Northern University College of Law, Ada, Ohio	70	50	40	—	—	—	—	—	—	160	150
¹ Akron Law School, Akron, Ohio	35	36	30	—	—	—	—	—	—	101	87
College of Law, University of Cincinnati, Cincinnati, Ohio	21	10	21	—	—	—	—	—	—	52	61
Y. M. C. A. Law School, Cincinnati, Ohio.....	76	53	41	16	—	—	—	—	—	186	167
St. Xavier College Law School, Cincinnati, Ohio..	33	26	25	—	—	—	—	—	—	84	115
Cleveland Law School, Cleveland, Ohio.....	150	150	125	20	—	—	—	—	—	445	513
John Marshall Law School, Cleveland, Ohio.....	125	110	75	—	—	28	39	—	—	377	406
¹ Lake Erie School of Law, Cleveland, Ohio.....	33	18	14	—	—	—	5	—	—	70	—
Western Reserve University Law School, Cleveland, Ohio	95	54	58	—	—	—	8	—	—	215	196
University of Ohio Law School, Columbus, Ohio..	123	108	63	—	—	—	7	—	*7	294	232
Y. M. C. A. Law School, Co- lumbus, Ohio.....	25	30	15	15	—	—	—	—	—	85	—
St. John's University Law School, Toledo, Ohio....	—	—	⁴ 24	—	—	—	—	—	—	24	38
Youngstown Ass'n School of Law, Youngstown, Ohio	40	25	15	10	—	—	10	—	—	100	122
Oklahoma University Col- lege of Law, Norman, Okl.	78	80	45	—	—	—	—	—	—	203	255
¹ Tulsa Law School, Tulsa, Okl.	20	—	—	—	—	—	—	—	—	20	—
University of Oregon Law School, Eugene, Ore....	27	10	7	—	—	—	3	—	—	47	—
Northwestern College of Law, Portland, Ore.....	44	32	31	—	—	—	—	—	—	107	120
Willamette University, Col- lege of Law, Salem, Ore.	6	13	21	—	—	—	—	—	—	40	52
Dickinson School of Law, Carlisle, Pa.....	95	74	63	—	—	—	31	—	—	263	251
University of Pennsylvania Law School, Philadelphia, Pa.	135	87	58	—	—	1	—	—	—	281	238
Temple University Law School, Philadelphia, Pa.	96	88	52	64	—	—	7	—	—	307	260
Duquesne University Law School, Pittsburgh, Pa...	62	53	29	—	—	—	—	—	—	144	118
University of Pittsburgh Law School, Pittsburgh, Pa.	68	70	51	—	—	—	7	—	—	196	201
Northeastern University School of Law, Provi- dence, R. I.....	25	10	11	18	—	—	—	—	—	64	57
University of South Caro- lina Law School, Colum- bia, S. C.....	32	52	50	—	—	—	6	2	—	142	139
Furman University College of Law, Greenville, S. C.	14	6	2	—	—	—	15	—	—	37	—

¹ New school—classes not yet complete.

*To be subtracted.

⁴ No new students have been admitted to St. John's University Law School for the last two years.

SCHOOL	1st Year	2nd Year	3rd Year	4th Year	Summer	Graduate	Special	Unclassified	Duplicate	Total—1922	Total—1923
University of South Dakota Law School, Vermillion, S. D.....	40	31	20	—	—	—	8	—	—	99	83
Chattanooga Law School, Chattanooga, Tenn.....	36	30	20	—	—	—	—	—	—	86	81
University of Tennessee Law School, Knoxville, Tenn.	35	12	13	—	—	—	—	—	—	60	55
Cumberland University Law School, Lebanon, Tenn...	160	40	—	—	—	—	—	—	—	200	178
University of Memphis Law School, Memphis, Tenn...	—	—	—	—	—	—	—	—	—	†125	90
Vanderbilt University Law School, Nashville, Tenn..	72	79	42	12	—	—	—	—	—	205	201
University of Texas Law School, Austin, Tex.....	142	115	90	—	—	—	13	—	—	360	298
1 Jefferson School of Law, Dallas, Tex.....	32	18	—	—	—	—	—	—	—	50	—
1 South Texas School of Law, Houston, Tex.....	30	—	—	—	—	—	—	—	—	30	—
Baylor University Law School, Waco, Tex.....	25	26	9	—	—	—	27	—	—	87	—
University of Virginia Law School, Charlottesville, Va.	91	50	86	—	—	—	7	—	—	234	233
Washington and Lee University Law School, Lexington, Va.....	27	29	51	—	—	—	—	—	—	107	134
Norfolk Night School, Norfolk, Va.....	—	—	—	—	—	—	—	—	—	—	40
1 Law Department, Virginia Union University, Richmond, Va.....	6	9	—	—	—	—	—	—	—	15	—
T. C. Williams School of Law, Richmond, Va.....											
Evening Division.....	33	30	25	—	—	—	4	—	—	132	140
Morning Division.....	17	23	—								
University of Washington Law School, Seattle, Wash.	42	39	41	—	—	—	1	—	—	123	149
Gonzaga University Law School, Spokane, Wash...	27	12	5	8	—	—	2	—	—	54	52
University of West Virginia Law School, Morgantown, W. Va.....	59	32	20	—	—	—	3	—	—	114	90
University of Wisconsin Law School, Madison, Wis.	105	62	63	—	—	—	—	—	—	230	269
Marquette University Law School, Milwaukee, Wis.	37	38	73	56	—	—	4	—	—	208	367
University of Wyoming Law School, Laramie, Wyo.	7	6	4	—	—	—	1	—	—	18	26
Osgoode Hall Law School, Toronto, Ontario, Canada	185	121	105	—	—	—	—	—	—	391	343
	14764	10363	8444	1236	164	379	800	55	*11	36194	32454
										†408	

36602

1 New school—classes not yet complete.

*To be subtracted.

* Includes evening division.

†Totals not itemized.

Notes and Personals

Several changes have taken place in the faculty of the Harvard Law School this year. Professor Edward H. Warren is absent in Europe on sabbatical leave. Assistant Professor Sayre is away for the year acting as adviser to the Siamese government. Professor McLain has resigned to enter practice in New York.

Eldon R. James has been appointed Librarian. He is the holder of the degrees of S. B. and LL. B. from the University of Cincinnati, and S. J. D. from this school. He has taught law at the University of Cincinnati, Wisconsin, Minnesota, and Missouri. At the latter institution he was Dean. For the last five years he has served as adviser to the Siamese government.

John M. Maguire has been appointed a professor. He graduated from Colorado College in 1908 and from this school in 1911. He has been practicing in Boston since graduation.

William E. McCurdy, a graduate of Harvard College in 1916, who received the degrees of LL. B. from this school in 1921 and S. J. D. in 1922, has been appointed as instructor in Law.

Theodore F. T. Plucknett, a holder of the degrees of A. B. and A. M. from London University, and of LL. B. from Cambridge, has been appointed instructor in Legal History.

Pierre G. Lepaulle, who received the degree of S. J. D. from this school in 1922, and who has been teaching in the University of Paris during the past year, is giving a course in Comparative Law for the first half year.

The following adjustment of courses has been made: In the first year, the course in Criminal Law is being given by Professor Maguire and the course in Property I by Dean Pound; in the second year, Equity is being given by Professor Chafee, Evidence by Professor Maguire, and Sales by Mr. McCurdy; in the third year, Corporations and Admiralty are being given by Assistant Professor Magruder and Labor Law by Professor Frankfurter; in the graduate year, International Law is being given by Professor Hudson and History of Law by Mr. Plucknett.



There were three hundred and twenty students enrolled in the School of Jurisprudence of the University of California, at the beginning of the present academic year, of whom one hundred and fifty-one were college graduates.

Dean William Carey Jones, after forty-

eight years of service in the University, retired at the end of the academic year in May, 1923. The occasion of his retirement was marked by the establishment by his former students of the William Carey Jones Scholarship, by the dedication of a marble chair in the Greek theater, and by the conferring of the degree of LL. D. by the University. Dean Jones died in Peking, China, on the 2d of October, 1923. He was the founder of the School of Jurisprudence, and its director and dean from its beginning, and his death is deeply felt by his students and faculty associates.

Professor Orrin K. McMurray, for many years a professor in the school and during last year visiting professor at Columbia Law School, was made dean of the law faculty succeeding Dean Jones.

Professor Thomas Reed Powell, LL. B., Ph. D., Ruggles Professor of Constitutional Law in Columbia University, is teaching the courses in Constitutional Law, Taxation, and Administrative Law during the present year.

Sir Paul Vinogradoff, Corpus Professor of Jurisprudence in Oxford University, delivered a course of lectures on Law as one of the Social Sciences during August and September.

Earl J. Sinclair, J. D., University of California, 1915, has been appointed lecturer on the Law of Municipal Corporations.

Courses in the Summer School were given by Dean Hale of the University of Oregon and by Professor Underhill Moore, of Columbia University. The former gave instruction in Torts and the latter in Bills and Notes. In addition to these, a number of courses in the Summer School were offered, in accordance with a long continued practice, in the field of Criminology. This group was given by Dr. E. B. Hoag, Dr. Jau Don Ball, August Vollmer, Chief of Police of Berkeley, now acting as Chief of Police of Los Angeles, Professor Albert Schneider, of the University of Nebraska, E. O. Heinrich, and other special lecturers.

An alumni association of the School of Jurisprudence has been formed. Its president is Herman H. Phleger, of San Francisco. It is engaged in active work for the welfare of the School.



The work of instruction of the University of Chicago Law School during the summer, 1923, was assisted by Dean Joseph W. Madden, of the West Virginia University College of Law, and by Professor Lyman P. Wilson, Professor of Law in Cornell University.

Two hundred and twenty-one students were in attendance during the summer.

Roswell Foster Magill, J. D. (University of Chicago) '20, Instructor in Law in the University of Chicago Law School for the last two years, resigned at the end of the year 1922-23 to take a position in the office of the Commissioner of Internal Revenue, Treasury Department, Washington, D. C.

Sydney K. Schiff, J. D. (University of Chicago) '23, has been appointed an Instructor in Law in the University of Chicago Law School for the year 1923-24. Mr. Schiff was the winner of the Wig and Robe Prize in his second year in the Law School, with the highest standing of any student in that class, and in his third year was elected a member of the Order of the Coif.



The American Law Institute, which was organized in February, 1923, for the purpose of restating in simpler and clearer form the principal topics of American law, has begun its work by making the following appointments:

Professor Joseph H. Beale, Harvard University Law School, to restate the subject of Conflict of Laws.

Professor Francis H. Bohlen, University of Pennsylvania Law School, to restate the subject of Torts.

Professor Floyd R. Mechem, University of Chicago Law School, to restate the subject of Agency.

Professor Samuel Williston, Harvard University Law School, to restate the subject of Contracts.



Few changes have occurred in the faculty of the Yale University Law School. Mr. Justice Beach, of the Connecticut Supreme Court, has resigned the professorship which he has held in the Law School since 1908, in order to devote himself exclusively to judicial duties. His course on Legal Ethics will be offered by Mr. Harrison Hewitt, Yale B. A. 1897, LL.B. 1899, a member of the New Haven Bar and Chairman of the Grievance Committee of the New Haven County Bar Association. Judge Beach's course in Admiralty will be offered by Professor Llewellyn.

Mr. Daniel D. Morgan, LL. B. Michigan 1909, a member of the Minnesota Bar, who has had offices in Duluth, has been appointed instructor to assist in the moot court and practice work. His active professional experience as a trial lawyer well qualifies him to give such instruction.

Professor E. G. Lorenzen is on leave of absence during the first term, but will return for the second term and offer courses in Conflict of Laws and Roman Law.

The school opens with a student enrollment about fifty larger than last year. Each

of the classes is larger than in any previous year since the college degree requirement went into effect. The increase in the second and third year classes is due to transfers of students from other schools, of whom there are 38 who have transferred from 24 law schools, members of the Association of American Law Schools. The total student body represents degrees from 99 different colleges and universities. There are 106 Yale graduates.

Among the students doing postgraduate work are Professor Daniel F. Bobbitt, of the Law Faculty of the University of Texas, and Professor George W. Stumberg, of the Law Faculty of the State University of Louisiana.

The 1923 summer session was more largely attended than any previous summer session. 93 students were registered the first term, extending from June 21st to July 28th, and 88 the second term, from July 30th to September 5th. The summer faculty consisted of Judge Dibell and Professor Sturges, of Minnesota, and the following members of the Yale faculty: Professors Thurston, Morgan, Clark, and Swan.

Next summer it is proposed to offer graduate law courses intended primarily for law teachers. An announcement of the proposed curriculum will be made shortly.



The Northwestern University Bulletin, recently issued, gives an account of the Law School Alumni Banquet, held October 10th, which makes exciting reading. The banquet was called to welcome Dean Wigmore home from his eight months visit in Europe and to hear announcements of certain very important contributions to the law school. At the banquet formal announcement was made of the gift of Mrs. Levy Mayer of the sum of \$500,000 to erect a law school building for Northwestern University on the McKinlock Memorial Campus, to be known as Levy Mayer Hall. The work on the new building, which is to be in the Gothic style, will be started at once.

It was reported at the banquet that the campaign for a building and endowment fund, which was conducted in 1919, had succeeded in raising subscriptions of over \$200,000, part of which has already been applied towards the purchase of the Alexander McKinlock Memorial Campus on the north side. The site for the new law school having been acquired and the money having been given for the new law school building, it remains to procure funds to furnish and equip the school for the future. To this end the committee has suggested the endowment of specially designated chairs to provide for the support of a strong and permanent faculty. Already two of the special foundations have been started, and a resolution was offered at the banquet that the John Henry Wigmore

Chair of Evidence be established and maintained in and for the Law School of Northwestern University. The resolution, which was unanimously carried, provided that the first \$150,000 of the subscriptions to be obtained in the new campaign by the Committee of the Law School Alumni, should be devoted to an endowment fund for this chair. The campaign is to be carried forward with a goal of \$1,800,000 and the work of raising this money has already been begun.

One of the speakers at the banquet was Professor Frederick C. Woodward, of the University of Chicago Law School.



Three new names appear upon the list of the faculty of the Stanford University Law School.

Professor George E. Osborne comes to this school from the University of Minnesota. Professor Osborne received his academic training at the University of California and his law training at Harvard University, from which he received the degrees of LL. B. and S. J. D. He fills the vacancy caused in the teaching staff by the death of Professor Charles Andrews Huston. Professor Osborne is teaching the following subjects: Personal Property, Future Interests, Quasi Contracts, Mortgages, and Bankruptcy.

The appointment of Associate Professor Harold Shepherd marks an increase in the number of the staff from seven to eight full-time teachers. Professor Shepherd holds both his A. B. and J. D. degrees from Stanford University. He has had a year's experience in the teaching of Political Science, and during the last year was Dean of the University of Wyoming Law School. At Stanford he will teach this year the courses in Contracts and Agency.

Mr. Benjamin L. Holland is serving as Acting Associate Professor, teaching Evidence, Administrative Law, Bailments and Carriers, and Insurance. Professor Holland received his A. B. and LL. B. degrees from the University of Kansas, and his J. D. from Yale. Prior to his coming to Stanford he spent a year in research in Problems of Evidence under the auspices of the Commonwealth Fund. Professor Holland is filling the vacancy caused by the absence of Professor Clarke Butler Whittier on sabbatical leave. Professor and Mrs. Whittier are spending this year in travel abroad.

The remaining members of the regular staff are Professors Joseph W. Bingham, Arthur M. Cathcart, Marion R. Kirkwood, William B. Owens, Chester G. Vernier. Professor Kirkwood has been appointed Dean of the school.

During the year special courses of lectures will be given by Mr. O. K. Cushing, of the San Francisco Bar, on the subject of Legal Ethics, Mr. H. G. Hill, of the San Jose Bar, on Special Topics in Pract^{ice}

Leonard S. Lyon, of the Los Angeles Bar, on Patent Law.

The rapid increase in the attendance has led the faculty to adopt certain limitations upon the admission of students to law classes. Beginning January 1st, enrollment in first year courses will be restricted to professional students. An extended course in Business Law will continue to be offered, to meet the needs of nonprofessional students desiring some knowledge of law for business purposes.

A scholarship requirement will also be applied to undergraduate students seeking admission to the school. In terms of the Stanford grade point system, a minimum grade point record of 1.1, maintained over the applicant's entire previous college course, will be required. This means an average somewhat higher than a minimum "C," on a grading system wherein "A," "B," "C," and "D" are all passing. An equivalent requirement will be made of undergraduate transfers from other institutions. It is the intention of the school to raise this scholarship requirement as rapidly as may be necessary to keep the number of first year students at a proper maximum for the most effective instruction.

The summer quarter was well attended and very successful. Courses were given as follows: Contracts by Professor George P. Costigan, Jr., of the University of California; Municipal Corporations by Professor Evans Holbrook, of the University of Michigan; Private Corporations and Jurisprudence by Professor Floyd R. Mechem, of the University of Chicago; Quasi Contracts by Professor Charles E. Carpenter, of the University of Oregon; Public Utilities by Professor Cathcart, Partnership by Professor Owens, and Rights in the Land of Another by Professor Kirkwood, all of the Stanford staff.



Harlan F. Stone, since 1910 Dean of the Faculty of Law of Columbia University, has resigned and taken up the practice of law with Sullivan & Cromwell of New York City. Dean Stone has been one of the leaders in the movement for the raising of standards of legal education in this country, and achieved noteworthy success in advancing the prestige of the Columbia Law School.

Professor Thomas I. Parkinson, of the Columbia Law Faculty, has been designated Acting Dean. Mr. Parkinson is Chairman of the Committee on Classification and Re-statement of the Law of the American Bar Association, and a Director of the Legislative Drafting Research Fund of Columbia University.

Hon. John Bassett Moore, a Judge of the Permanent Court of International Justice, returned from The Hague the latter part of September to continue his work as a Profes-

sor of International Law at Columbia University.

Professor Thomas Read Powell, of the Columbia Law School, is absent on leave for the present academic year, and is teaching at the School of Jurisprudence of the University of California.

Mr. Huger W. Jervey and Mr. Hessel E. Yntema have been appointed to the faculty of the Columbia Law School.

Mr. Carroll B. Low, of the class of 1922, has been appointed lecturer in law in the Columbia Law School.

Professor C. E. Clark, of Yale University, will be a visiting lecturer in law at Columbia in the spring session.



Professor William Draper Lewis, of the University of Pennsylvania Law School, has been granted a leave of absence for one year to accept the position of Director of the American Law Institute. His course in Trusts will be given by Assistant Professor Reeve, and his courses in Corporations and Partnership will be given by Robert Dechert, Esq., and Paul C. Wagner, Esq., respectively. Edward S. Rogers, Esq., of the Chicago Bar, will deliver a course of lectures on "Trade-Mark, Copyright, and Unfair Competition" at the law school this year.



The most important part of the program for the current academic year at the University of Michigan Law School is a course of lectures on general jurisprudence, delivered by Sir Paul Vinogradoff, of Oxford University. The lectures covered a period beginning the latter part of September and running through October. This course was given as one of the regular courses for credit toward a degree, and was elected by a large number of students. An examination will be given, under the direction of Professor Shartel, upon questions framed by Sir Paul.

In addition, Professor Shartel will continue the treatment of general jurisprudence during the remainder of the first semester.

Sir Paul Vinogradoff has also conducted a series of Saturday forenoon conferences with a group made up of members of the law and political science faculties. Two papers by members of this group were read at each meeting, after which followed general discussion and a summation by Sir Paul. These conferences related for the most part, to modern tendencies in regard to political and legal ideas and institutions, as expressed in the work of juristic thinkers such as Krabbe, Duguit, Stammer, and others.

On October 26 the honorary degree of LL. D. was conferred by this University upon Professor Vinogradoff, at a special Convocation at which Sir Paul delivered an address.

There have been no changes in the facul-

ty of the Law School for the current year. Professor Joseph H. Drake is absent on leave for the first semester, and is doing some special work in jurisprudence with Professor Rudolf Stammer, of the University of Berlin.

During the summer session of 1923, in addition to members of the regular staff, we were favored with the presence of Professor Joseph W. Bingham, of Stanford University Law School who gave the course in Trusts, and Professor Francis S. Philbrick, of the University of Illinois Law School who taught Pleading.



There have been no faculty changes in the University of Illinois College of Law. During the course of the last school year a committee of the faculty spent much time and labor studying the law curriculum. Towards the end of the year this committee made its report to the faculty, which adopted the majority of the recommendations made. A material change in the first year was made in the Actions course. This course, given by Professor Philbrick, was much enlarged in its scope, and now is developed as an introductory law course; the emphasis being placed upon the historical factor in the development of the law. Three hours in the first semester are devoted to it. There was also added to the first year curriculum a required reading course. This work is continued the subsequent years, with two additional optional reading courses. This new work is under the surveillance of Professor Green. The students are obliged to take an examination over the readings, and upon successful completion of the work credit is given. This endeavor has been prompted by the desire to devise a means to acquaint the student with the more general literature of the profession. The response has been gratifying. Professor Pomeroy's course in Equity II has been increased in scope to include Labor Injunctions. Professor Summers offers a new course in the Law of Oil and Gas. Professor Green has undertaken a new course in Legal Analysis, and Professor Philbrick offers a new course, taught for the first time last semester, in Legal History.

The enrollment shows this year a decided increase over last; the total increase being about 45 per cent., the first year class showing an increase of over 60 per cent.



The principal faculty changes at the College of Law of the University of Iowa are due to the resignation of Professor Frank H. Randall, who has returned to practice. Wayne G. Cook, Esq., of the Davenport, Iowa, Bar, has been chosen to succeed him. Mr. Cook took his law degree at Iowa in 1913, at the same time being elected to the Order of the Coif. Since that time he has

been in active practice with the firm of Cook & Balluff at Davenport, Iowa, of which his father is the senior member. Mr. Cook is unable to come for full time work until the second semester. In the meantime part of his work is carried by Sam H. Erwin, A. B. Iowa 1911, LL. B. 1913 (Order of the Coif), of the Davenport Bar, who gives Code Pleading, and C. F. Luberger, of the Cedar Rapids Bar, A. B. Dartmouth 1907, LL. B. Iowa 1910, who gives the course on Bankruptcy. O. K. Patton, who received his S. J. D. degree at Harvard in June, 1923, has been granted leave of absence from the law faculty for the present year to act as Associate Editor of the new Iowa Code, which will be submitted to the special session of the Iowa Legislature in December. Mr. Patton's work will be carried during the year by Mr. Millard S. Breckenridge, who carried it with excellent satisfaction last year while Mr. Patton was in Cambridge.

Several changes have been made in courses. The course in Torts has been lengthened from two and one-half year hours to three year hours, and the course in Criminal Law separated from the course in Criminal Law and Procedure and reduced to two year hours. Criminal Procedure will be offered as a third year course, covering two semester hours, and using Professor Rollin M. Perkin's new casebook on Criminal Procedure. The courses in Suretyship and Mortgages have been combined into one course, covering two year hours. The course in Use of Books has been shifted from the second semester to the first semester of the first year. Several new courses appeared in the summer session of 1923. One is a course on Examination of Abstracts of Title, covering four hours per week for six weeks, and offered by Arthur A. Zimmerman, A. B. Iowa 1911, LL. B. 1915, of the Waterloo Bar. This course was devoted entirely to the examination of abstracts of title and writing of opinions. Another course was Organization of Corporations offered by Wayne G. Cook, of the Davenport Bar. A third new course was Income and Inheritance Taxation, offered by James F. Ryan, LL. B. Iowa 1922, of the Dubuque Bar. Mr. Ryan was for several years in government service in connection with income and inheritance tax matters. Another feature of the summer session was a three-day conference of city attorneys, mayors, and other public officials on public utility rate-making and regulation in Iowa.

The enrollment in the summer session of 1923 was thirty-seven, of whom seventeen were law graduates or members of the Bar. No courses were offered for first year law students, the purpose being to offer, not only substantive courses suitable for second and third year students, but also several problem courses dealing with the mechanics of practice and the art of advocacy, which would

be of peculiar interest to third year law students and members of the Bar. This project will be further developed in the summer session of 1924.

Considerable additions were made to the law library last year, one of the chief being about one thousand volumes of abstracts and arguments of cases decided by the Supreme Court of Iowa since 1898. A second deck was placed on a part of the library stack to accommodate this set and other considerable additions to the Session Law collection and to British colonial reports. The library now numbers upwards of 32,000 volumes.



There have been no changes in the faculty of the University of Kansas School of Law, with the exception of Professor M. T. Van Hecke, who came from the University of North Carolina Law School. His subjects are Legal Bibliography, Equity I, II, and III, Trusts, and Sales. The new courses are Legal Bibliography, Taxation, and International Law, which have been added this year; the latter two subjects being given by Dr. Frank Strong. The subject of Equity is now given in three separate courses, totaling seven semester hours, whereas it was formerly given in two courses, totaling five semester hours.



The enrollment in the University of Virginia Law School for the current session is well up to the average. No material changes have been made in the curriculum.

The vacancy caused by the death of Professor Raleigh C. Minor, in June last, has been temporarily filled by the appointment of F. D. G. Ribble, B. A., M. A., LL. B., as acting adjunct professor. Mr. Ribble had already served for two years as locum tenens in the Law School, with great satisfaction, both to students and faculty.

The John Bassett Moore Library of International Law, donated by the distinguished jurist whose name it bears, is a recent valuable addition to the Law Library.



Two new appointments have been made to the Law School faculty of the University of Minnesota:

Professor R. Justin Miller is a graduate of Stanford University in 1911, the University of Montana Law School in 1913, and of Stanford University Law School in 1914. He has been engaged in the general practice of law, and was District Attorney for Kings County, California, for four years; he was attorney and executive officer for the California Commission on Immigration and Housing for two years; and has been Professor of Law in the University of Oregon for the past two years. His work this

year will include Criminal Law, Trusts, Damages, and Insurance.

Professor Wesley A. Sturges is a graduate of the University of Vermont in 1915, with the degree of Ph. B., the Law School of Columbia University in 1919, and the graduate course of the Yale Law School in 1923. He has been two years in the general practice of law and two years as Assistant Professor of Law at the University of South Dakota. He taught in Yale Law School during the summer sessions of 1922 and 1923. His work will cover the subjects of Common-Law Actions, Equity I, Equity II, and Conflict of Laws.



Thirty-two colleges and universities are represented by the freshman students who entered the Law School of Western Reserve University this fall.

The total attendance is 215, the largest registration in the history of the school.

The only addition to the faculty of Western Reserve Law School is Mr. Harold H. Burton, who will teach the course in Private Corporations. Mr. Burton was graduated from Bowdoin College with the degree of A. B. in 1909, and from Harvard University Law School with the degree of LL. B. in 1912.

Labor Law and Trade Regulation are being offered this year for the first time. Professor Albertsworth has charge of these courses.



University of North Carolina School of Law has suffered a very great loss in the death of Dean Lucius Polk McGehee, who died in Richmond, Va., on October 11, 1923, after an illness of a few weeks. He had been connected with the Law School for most of the time since 1904, and had been Dean of the school since 1910.

Maurice T. Van Hecke, who had been Professor of Law here for the past two years, and managing editor of the North Carolina Law Review for the past year, resigned in June, to go to the University of Kansas.

The Law School opened its present term on September 20, with the following members of the faculty from last year: A. C. McIntosh, acting Dean, P. H. Winston, and R. H. Wettach. New members added are Albert Coates, an alumnus of this university and a recent graduate of the Harvard Law School, and F. B. McCall, for two years a student in this law school and a member of the bar of Charlotte, N. C. R. H. Wettach is the managing editor of the North Carolina Law Review for this year.

At the opening of the term the Law School occupied the new Law Building which has just been completed. It is a large, commodious brick building, beautifully finished and comfortably furnished, with several class-

rooms, offices for the faculty, a large reading room, with library stack room adjoining, and a social room for the benefit of the students. It is called Manning Hall, in honor of the first Dean of the school, John Manning.



The University of North Dakota School of Law opened September 22, 1923. The school is now comfortably quartered in the new building for the School of Law. There are now five full-time men on the faculty.

Mr. Robert W. Muir has resigned to accept a position in the law school at the University of Tennessee, at Knoxville, Tennessee.

Mr. Charles E. McGinnis resigned to enter the practice. He is now located at San Francisco, California.

Mr. Roger W. Cooley returns to the law school after an absence of five years in government work. He will teach Legal Liability, Public Service Companies, Administrative Law, and Constitutional Law.

Mr. Orville P. Cockerill was recently elected Dean, coming from a period of four years' service as Dean of the College of Law, University of Idaho, Moscow, Idaho. He will give Contracts, Equity, and Corporations.

Mr. Lauriz Vold is beginning his tenth year on the faculty here, and Mr. Thomas E. Atkinson, who is beginning his second year, are the other full-time members of the faculty.

Mr. Frank S. Rowley is the last and fifth member to be added to the faculty. His subjects are Sales, Partnership, Suretyship, and Bankruptcy. He received his Master of Law degree from George Washington University in 1923.



The enrollment of the School of Law of the University of Texas, to date, is 360, an increase of more than 10 per cent. over the total registration of last year. Of this number, 142 are first year students. The number of special students is 13; all the others having the ten college courses required for admission to the School of Law, or B. A. degrees.

The resignation of Judge John C. Townes as Dean becoming effective September 1st, Dr. George C. Butte, who has been a member of the faculty for nine years, was elected Dean and assumed his new duties at the beginning of the current session. Prof. D. F. Bobbitt is absent on leave, taking graduate work in the Yale Law School. Miss Lucy M. Moore has been added to the faculty as instructor in Legal Bibliography. The personnel of the faculty is as follows: Dean George C. Butte, Professor John C. Townes, Professor W. S. Simkins, Professor Ira P. Hildebrand, Professor C. S. Potts, Professor W. A. Rhea, Professor C. T. McCormick, Pro-

fessor Leon Green, Professor C. G. Haines, and Instructor Lucy M. Moore.

The following courses have been added to the curriculum: Municipal Corporations, Quasi Contracts, Trusts, Mortgages, Legal Ethics, Comparative Law and Legal Philosophy, and Legal Bibliography.

Hon. R. E. L. Saner, of Dallas, Texas, alumnus of the School of Law, recently elected President of the American Bar Association, will be the guest of honor at the annual banquet of the Law School in December.

The Texas State Bar Association has directed the Texas Law Review sent to each of its members, approximating one thousand lawyers of the state. The initial issue this year will contain the proceedings of the meeting of the Association last July. There will be four subsequent issues of the Law Review.



There have been the following faculty changes at the Law School of George Washington University:

Professor Arthur Peter has resigned as Professor of Law after a long connection with the law school. His retirement from the faculty was due to the pressure of his practice. Assistant Professor Thomas C. Lavery has also resigned, to become a member of the Board of Appeals and Review of the Internal Revenue Bureau. Dean Merton L. Ferson is on leave of absence for this year. During this leave of absence he is teaching at the University of Missouri Law School. Professor H. G. Spaulding is also on leave of absence, attending the post-graduate course for the S. J. D. degree at the Harvard Law School. He has the Ezra Ripley Thayer teaching scholarship at Harvard this year. During the absence of Dean Ferson, Professor Wm. C. Van Vleck has been appointed Acting Dean.

To fill the vacancies caused by resignation and leave of absence, the following appointments have been made to the faculty:

Professor Earl C. Arnold has been appointed Professor of Law, coming to this school from the University of Cincinnati Law School. Before his appointment as Professor of Law at Cincinnati, he was Professor of Law at the University of Idaho and University of Florida. Whitley P. McCoy has been appointed Assistant Professor of Law. Professor McCoy was Assistant Professor of Law at the University of South Dakota last year. He is a graduate of Dartmouth College and of the George Washington University Law School. Before going to South Dakota he was Associate Professor of Law at the University of Alabama. Mr. Joseph A. Jordan, who has been secretary of the Law School since January, 1922, has been appointed instructor in law, beginning February 1, 1924. He will continue his work

as secretary of the Law School, devoting part of his time to teaching.

There have been three additions to the part time faculty, as follows:

Edward A. Harriman, lecturer in law, A. B. Harvard University, LL. B. Boston University, formerly Professor of Law at Northwestern University and lecturer in the Yale Law School. Subject, International Law. Ellsworth C. Alvord, lecturer in law, A. B. University of Wisconsin, LL. B. Columbia University. Subject, Administrative Law and Statutes. Clarence A. Miller, lecturer in law, LL. B. LL. M. George Washington University. Subject, Legal Bibliography and Brief-Making.

This year a new entrance requirement of a year of college work was put in effect, and in 1925 an additional year of college work will be added. The loss in the first year class has been surprisingly small, in view of the increase in the entrance requirements.

There has been a substantial increase in the requirements for the LL. B. degree; 72 semester units has been the requirement—that is, three years of 12 hours each. Beginning the next half year, new students will be required to complete 80 semester hours. In accordance with the requirements of the Association of American Law Schools and the American Bar Association, part-time students attending the late afternoon sessions are limited to 10 hours per week and are required to spend four years. The requirement for full-time students has been increased at the same time, so that two years of 14 hours per week and one year of 12 hours per week are required.

Last spring an organization was started in the school, known as the Benchers, membership in which is based strictly on high scholarship. The faculty elects at the beginning of each year those members of the third year class who have made an average of "A" in their first two years. At the end of the year the faculty elects from the graduating class those who have graduated with an "A" average, provided they do not exceed 10 per cent. of the graduating class. Seniors who have been elected are, during their last year, known as Term Benchers. Students elected at the end of their course become Benchers. The organization already has a membership of 53, consisting of elections by the faculty last year and this year, and the election of honor graduates in preceding years.

A new course in Drafting and Interpretation of Statutes will be given the second semester of this year. It will be given by Mr. E. C. Alvord, who has had several years' experience as Assistant Director of the Legislative Drafting Bureau of the House of Representatives.

The law school conducted last summer probably its most successful summer session. Eight subjects were given for two

periods of six weeks each. The total registration was 475.



The University of Washington School of Law, established in 1890, situated at Seattle, Washington, has at present an approximate enrollment of 200. The faculty is composed of five professors, Messrs. Condon, Bissett, Lantz, Goodner, and Ayer and Mr. J. G. O'Bryan, lecturer. Dean John T. Condon, himself a graduate of the University of Washington, has been Dean of the Law School for more than twenty years, and it is due to his sincere endeavors that the school has reached its present high standard.

Professor Clark P. Bissett, instructor in the Laws of Property and Constitutional Law, left at the end of the summer session on a two months' leave of absence, to be spent in Europe on matters of business and in regaining his health. During his trip he will visit chiefly at London and Paris. While absent, Mr. Bissett's classes are being handled by Mr. Alfred J. Schweppe, of the Seattle Bar.

The University of Washington School of Law boasts one of the most complete law libraries in the West, containing over 25,000 volumes of complete reports, including Bar Association and federal and state reports. The library is in charge of Mr. Arthur S. Beardsley, and has recently been greatly improved by the addition of two-story steel shelving and an enlarged reading room. Some valuable acquisitions were made recently of old English works, through the aid of Mr. C. W. Smith, of the University general library, while in London on business, including valuable works rarely found in American legal libraries.

Legal fraternities, of which there are three at Washington, Delta Theta Phi, Phi Alpha Delta, and Phi Delta Phi, are quite active, both in scholastic and social life. A debate trophy, known as the Delta Theta Phi cup, has been presented by that fraternity to the four debate societies of the university, to be retained by the organization winning it three consecutive times.

A large bronze honor plaque was presented to the Law School last year by the members of Phi Alpha Delta fraternity, on which will be inscribed each year the name of the law student graduating with highest honors. The first name to be inscribed on the plaque was that of Harold M. Hutchinson, of last year's class.

A class of about thirty was graduated with the degree of LL. B. last June, all of whom were successful in passing the Washington State Bar Examination. Requirements for a degree of LL. B. are identical with those established by the Association of American Law Schools, of which the University of Washington School of Law is a member. A full three-year course in law, designed to

give an effective knowledge of legal principles and to develop the power of independent reasoning, preceded by two years' academic work in the Pre-Law School of the College of Liberal Arts, is required.



The College of Law of West Virginia University opened for the school year of 1923-24 with an enrollment of 113 students, classified as follows: Third year, 20; second year, 32; first year, 58; special students, 3. The attendance at the opening of the preceding year in all classes was 88.

There were no changes in the faculty for this year, except the addition of Mr. Benjamin G. Reeder, a graduate of the West Virginia University and of the College of Law, who has been made Law Librarian, giving his full time to the work.

The College of Law is now occupying its new building. The general plan of the building is somewhat similar to that of the law buildings at the University of Chicago and the University of Oklahoma. The classrooms and the practice court room occupy the first floor of the building. One half of the second floor is occupied by the library reading room and the other half contains the stack room, surrounded by the offices of the members of the faculty. The students have a locker room and a club room in the basement. The building was formally dedicated on Saturday, November 17. Dean Pound, of the Harvard Law School, delivered the principal address. The West Virginia Bar Association held its annual meeting on the two days preceding the dedication, so that there was a large attendance of the lawyers of the state. Invitations were issued to all of the law schools in the country, and representatives of many of them attended the dedication.



Dean George Gleason Bogert, of the Cornell University College of Law, is absent on sabbatical leave for the college year of 1923-24. He is spending his year of leave with the firm of Whitman, Ottinger & Ransom, 120 Broadway, New York City. Professor Charles Kellogg Burdick has been appointed Acting Dean during the absence of Dean Bogert.

Plans are being made for a second summer session of eleven weeks in 1924. The session will be divided into two terms, of five and one-half weeks each, as in 1923, the first term to begin on June 23d, and the second to begin on July 30th.

On June 16, 1923, at a meeting of the alumni and friends of the College of Law, the Cornell Law Association was organized. The objects of this Association are to promote interest in the College of Law, to establish scholarships and prizes, to aid the graduates of the College of Law in making

advantageous connections, and to serve as a bond of union among the graduates of the College of Law and the school and all other Cornell lawyers.

The Association is governed by an Executive Committee of nine members and a board of regional vice presidents.

Hon. Frank Irvine, of Ithaca, New York, was elected President for the first year, and H. E. Whiteside, of Ithaca, New York, Secretary-Treasurer.

At this writing, the membership of the Association is about five hundred.

At the first annual meeting of the Cornell Law Association, held at Ithaca on October 13, 1923, Judge William L. Ransom, of New York City delivered an address on "The Changing Profession."

On October 15th and 16th, Colonel Henry W. Sackett of New York City delivered two lectures on the subject of "The Struggle for Freedom of Utterance."

The Cornell Law Quarterly is beginning the publication of its ninth volume, with an excellent board of student editors, and prospects for a largely increased circulation.



The following report was received from the Law School of the University of Oregon:

Professor Sam Bass Warner, who was absent on leave for the academic year 1922-23, has resumed his work. While away he completed the fourth year of work in the Harvard Law School, and received the S. J. D. degree last June. Also, during the year, he was Director of Research for the American Institute of Criminal Law and Criminology, in the field of criminal statistics. He will continue that work during the present year.

Professor E. H. Decker was appointed to a position on the summer faculty of Stanford University Law School, but at the last moment was obliged to resign on account of a sudden illness. Professor Charles E. Carpenter was appointed to fill the vacancy, and gave a course in Quasi Contracts.

Dean Hale conducted a course in Torts in the University of California summer session.

Professor R. Justin Miller resigned late in the spring, to accept a professorship in the University of Minnesota.

Professor Charles E. Carpenter, who last year was a member of the faculty on temporary appointment, has received a permanent appointment to fill the vacancy left by Professor Miller's resignation.

Dean Hale is offering to the third year class a course entitled "The Administration of Justice." The purpose of this course is to bring to the attention of this group of near lawyers the problems with which they should attempt to deal in a constructive way when they become members of the legal

profession, and to arouse their interest in the questions of outstanding importance to which the American Bar Association, the American Judicature Society, and the various Bar Associations are giving particular attention. For example, the course takes the following questions: The reorganization of the Oregon State Bar Association; the unification of the state courts; the American Institute of Law, its purposes and methods; the commercial arbitration and compromise movements; probation and parole laws and other methods and proposals for dealing with the problems of crime; the uniform laws movement as a whole, including some of the legislation to which particular attention cannot be devoted in the regular courses. The purpose of the course is to do what can be done to induce the law graduates to become active workers in the state and local Bar Associations, and to give them the point of view and something of the informational background requisite for such services. This is conducted as a seminar course.

The College of Law of the Youngstown Institute of Technology, Youngstown Ohio, has materially strengthened its course of study, particularly in the subjects of Pleading and Practice and Equity. There are a larger number of college graduates enrolled than ever before. It is hoped, in the future, to make two years of college education a prerequisite for entering the freshman class. About five thousand volumes have been added to the library of the school, including the complete National Reporter System and American Digest System.

The Creighton University, College of Law of Omaha, Nebraska opened with the largest enrollment of its history. The Faculty has been enlarged by the addition of Professor Charles F. Bongardt as a full-time professor. Professor Bongardt has just completed his post graduate work at the Catholic University of American Law School at Washington, D. C. receiving his LL.M. degree.

The College of Law Library has been enriched by the donation of the Law Library of the late Judge Estelle, comprising about 700 volumes. This brings the total of volumes in the library over 25000.



The Brooklyn Law School of St. Lawrence University began its twenty-second year on the 24th day of September, with the largest enrollment in its history, the students now totaling 1752.

While the school retains its former location, its quarters have been greatly enlarged, the library has been increased by the addition of many English and American reports, and the classrooms have been completely remodeled.

In addition to the regular morning, afternoon, and evening divisions, a new division has been organized, to meet between the

afternoon and evening divisions. Though the organization of such a division was in the nature of an experiment, it has met with such an enthusiastic response from prospective students that applications for enrollment had to be denied several weeks before the opening of the school year, owing to the large number who sought admission.

Additions to the faculty have been made as follows:

Frederick Ralph Crane, son of Judge Frederick E. Crane, of the Court of Appeals, State of New York, will teach classes in Evidence.

Harold Remington, author of Remington on Bankruptcy, will give the course of lectures on Bankruptcy.

Roy M. D. Richardson, who is the third Rhodes Scholarship graduate of the postgraduate faculty, will teach International Law.

Charles V. Halley, associated with the Public Service Commission since its organization in New York, will instruct in Administrative Law.

Dr. Philip A. Brennan, a distinguished member of the New York Bar, will lecture on Medical Jurisprudence.

Judge Edwin L. Garvin, of the United States District Court, will give the course on Legal Ethics.



The new building of the Washington University School of Law, St. Louis, Mo., was dedicated the 18th of November. The building was erected with money given by Miss Isabel Valle January, and as a memorial to her deceased mother, Grace Valle January. It is a beautiful structure, in the Gothic style of architecture, and cost about \$300,000 with its furnishings. It has a moot court room, a very long and impressive reading room, lecture rooms, offices for the professors, and various conveniences, and is complete in every respect.

There have been no faculty changes, except that Professor Charles E. Cullen has been added as a full-time member of the faculty. His subjects are Evidence, Bailments and Carriers, Agency, and Domestic Relations. He holds the degree of LL. B. and is an experienced teacher.

Although only 191 students registered this fall, there would have been at least 64 more, had not the requirement of pre-legal college work been raised by the University to two years; 64 students took the pre-legal course last year, and would have been ready to enter this fall, but for the increase in the requirement. This would have made a very large increase in attendance over last year at this time. It will take three years to overcome the effects of this change, because the small first year class of the present year will be the middle class of next year and the senior class of the year after. This

first year class has only 41 members; whereas, there would have been over 100, had no change in entrance requirements been made. There was scarcely any falling off in the enrollment of the second year and senior classes, much less than the usual percentage.



Two new full-time members have been added to the faculty of the De Paul University Law School, Chicago, in the persons of James J. Cherry and Neal D. Reardon.

Professor Cherry has been connected with the school as a part-time faculty member for the past thirteen years, but June 1st of this year he became a full-time faculty member. Professor Cherry holds the degrees of LL. B. and LL. M. from De Paul University Law School. During the thirteen years that he was a part-time member in the evening Law School, he was employed as attorney for the National Enameling & Stamping Company. Professor Cherry is in charge of the subjects of Contracts, Bills and Notes, and Partnerships.

Professor Neal D. Reardon comes from Creighton University Law School, where he was a full-time professor of law for eight years. He holds an A. B. degree from University of Illinois, and an LL. B., from Northwestern University Law School. He also has spent one year in postgraduate work at Harvard University Law School. Professor Reardon is handling the subjects of Real Property, Torts, and Private Corporations.

The Board of Trustees of the Law School has made an important change in the entrance requirements beginning with the school year 1923-1924. Students applying for admission to the Law School after September 1, 1924, must present credentials indicating graduation from a recognized four-year high school, and also credentials showing the completion of one year of academic college work. After September 1, 1925, all applicants for admission to the Law School must show credentials indicating graduation from a four-year recognized high school and two years of academic college work. These new changes in requirements apply to both the day and evening divisions.

Professor C. M. Doty, who has been connected with the Law School as a full-time member of the faculty for the past eleven years, has been appointed Assistant Corporation Counsel of the City of Chicago, and as a result he has given up his full-time position and is now teaching only part time in the evening Law School.

Dean Francis X. Busch, of the Law School, has been appointed Corporation Counsel of the City of Chicago. He has already taken part in many very important matters, as for instance, acting as arbitrator in the threatened strike of the street car employees of the City of Chicago.

During the summer of 1923, the Georgetown Law School received several large additions to its library. Mr. Rufus Day, son of the late Hon. William R. Day, Associate Justice of the Supreme Court of the United States, donated a part of the library of the late Chief Justice Fuller, and Dean George E. Hamilton, of the Law Faculty, also made a large and generous gift of law books to the library. The Law Library now has over 12,000 volumes, including reports of the States, of the federal courts, the English and Canadian reports, and a complete collection of encyclopedias and citators, together with a good collection of text-books.

The teaching staff consists of 32 professors and assistant professors. Hon. Constantine J. Smyth, Chief Justice of the Court of Appeals of the District of Columbia, formerly Professor of Law at Creighton University Law School, will teach Associations and Wills. Hon. A. A. Hoehling, Associate Justice of the Supreme Court of the District of Columbia, will teach Evidence. James Brown Scott, Secretary of the Carnegie Endowment for International Peace, former Solicitor of the State Department, Technical Delegate to the Paris Peace Conference, and Legal Adviser of the Washington Limitation of Armament Conference, will teach International Law. Hon. John E. Laskey, former United States Attorney for the District of Columbia, Jesse C. Adkins, former Assistant Attorney General, J. S. Easby-Smith, former Assistant United States Attorney for the District of Columbia, Dr. Wm. C. Woodward, former Health Officer of the City of Boston and of the District of Columbia, John J. Hamilton, D. W. O'Donoghue, Joseph D. Sullivan, author of Sullivan's Cases on Real Property, Thomas Ewing, former Commissioner of Patents, Frank S. Maguire, Howard Boyd, Rudolph Yeatman, M. M. Doyle, W. C. Sullivan, Howard Boyd, and Richard S. Harvey are members of the teaching staff of 28 part-time professors and assistant professors at the Law School. The assistant professors are Charles E. Roach, Edmund Brady, James A. Toomey, Wm. E. Leahy, Ralph B. Fleharty, Frank S. Perry, A. A. Alexander, Frederick Stohlman.

This year there are six full-time professors of law at the Law School, as follows:

Dr. Frederick J. De Sloovere, A. B., LL. B., S. J. D., Harvard University, an honor graduate of Harvard, who will teach Conflict of Laws, Roman Law, and Property.

Prof. Charles W. Tooke, M. A., LL. B., D. C. L., Fellow in Administrative Law, Columbia University, Head of the Department of Public Law and Administration, Professor of Law, University of Illinois, 1895-1902, and Doctor of Civil Law, Syracuse University, 1922, will teach Contracts, Property I, and Municipal Corporations.

Prof. Charles A. Kelgwin, M. A., LL. B., author of Kelgwin's "Precedents of Plead-

ing," and Kelgwin's "Cases on Torts," will teach Torts, Equity Pleading, Common-Law Pleading, and Equity I.

Prof. Wm. J. Price, M. A., LL. B., LL. D., Doctor of Laws and Political Sciences, National Institute of Panama, 1919, Professor of Law, Centre College, 1905-1912, and Envoy Extraordinary and Minister Plenipotentiary of the United States to Panama, 1913-1921, will teach Evidence, Negotiable Instruments and Domestic Relations.

Prof. Robert A. Maurer, B. A., LL. M., will teach Legal Liability, Criminal Law, and Constitutional Law.

Hugh J. Fegan, M. A., LL. B., Ph. D., Assistant Dean of the Law Faculty, will teach Agency, Insurance, and Damages. Mr. Fegan was Special Attorney in the office of the Solicitor of the Internal Revenue, Treasury Department, dealing with taxation of insurance companies.

The minimum requirement for admission to the Law School at the present time is one year of college work, and beginning October, 1925, the Law School will require for admission two years of work in an approved college for admission to the Law School.

The registration at the Law School as of October 10, 1923, is as follows: Pre-legal, 118; first year (day), 71; first year (late afternoon), 244; second year (day), 65; second year (late afternoon), 271; third year (day), 60; third year (late afternoon), 228; fourth year (postgraduate school), 58; special students, all classes, 54—a total registration of 1169.

Notwithstanding the college requirement for admission to the Law School, the registration at this time is approximately equal to the registration on the corresponding day for the past three or four years.

The Graduate Class this year is one of the largest in the history of the school. The principal requirement for the degree of Master of Laws is a thesis, which must contain not less than 20,000 words. A public disputation upon the subject-matter of the thesis will be required of each candidate for the Master's degree before a board of five members, to be selected by the Faculty.



Dean Joseph R. Long, of the School of Law of Washington and Lee University, resigned last August to accept a professorship in the Law School of the University of Colorado. Dean Long had been a member of the law faculty for twenty years, and Dean of the Law School since 1917. Professor W. H. Moreland, a member of the law faculty since 1914, was elected Dean to succeed Dean Long. The vacancy in the faculty caused by Dean Long's resignation has not been filled as yet.

The two-year college entrance requirement was put into force this year, which resulted in some falling off in the enrollment. Next

year it is planned to further tighten up the entrance requirements by refusing to admit any special students.



Mr. William J. Morgan, formerly Attorney General of the State of Wisconsin, has been added to the faculty of the Marquette University College of Law. He is teaching a course on "Combinations in Restraint of Trade." Students in the freshman class have been enrolled from seven different states and from Canada. The new law building is under way, and rapid progress has been made in its construction.



The School of Law of the University of Alabama began the first semester September 12th, and now has the largest registration of its existence, one hundred and seventy.

The faculty of last year is intact with the exception of Associate Professor Myron McLaren, who resigned at the close of the year. The school was exceedingly fortunate in securing W. J. Brockelbank to fill this vacancy. Associate Professor Brockelbank is a graduate of Haverford College, Pennsylvania, and of the Harvard Law School. The other members of the faculty are Dean A. J. Farrah, Professor J. V. Masters, Assistant Professor W. D. Rollison and Assistant Professor J. E. Livingston. There have been no material changes in the Law School curriculum.



The fiftieth annual session of the Howard University School of Law, Washington, D. C., was inaugurated in William Evarts Hall, the home of the law school, on October 1, 1923. Dr. J. Stanley Durkee, president of the University, and Justice Stanton J. Peele, who recently retired from the chairmanship of the Board of Trustees, were the principal speakers. Judge Fenton W. Booth, Dean of the Law School, opened the exercises with a brief speech of welcome to the new students. Professors Hayes and Stafford also spoke.

After a year's study, by a faculty committee, composed of Professors Dion S. Birney, James A. Cobb, and James P. Schick, a new curriculum providing for a minimum of seventy-two semester hours for the three-year course, has been adopted. This curriculum is announced in a separate catalogue of the law school and became effective on October 1, 1923. Alumni and others interested may have copies by addressing the secretary.

Professor Charles V. Imlay, member of the District of Columbia Bar and Commissioner of Uniform State Laws, of the American Bar Association, takes the chair of Real Property vacated by Professor Shreve, who resigned. Prof. Imlay is a graduate of Harvard University.

Professor Edward Stafford, Dartmouth '11, George Washington University '14, member

of the District of Columbia Bar, comes as an additional member, increasing the faculty to eleven. Prof. Stafford will offer courses in Equity Pleading and Torts.

Mr. George E. C. Hayes, Brown University '15, Howard '18, comes in as instructor in Common-Law Pleading and Domestic Relations.

Professors Cobb, Birney, Houston, Richards, Schick, Terrell, Wilson, and Waters remain as members of the faculty, but with changed assignments under the new curriculum. Miss Ollie M. Cooper will continue as clerk of the moot court, of which Mr. Woolsey W. Hall will again be the official reporter.

Professor Charles S. Shreve, who resigned solely because of pressing professional interests, carries into his new activities the love and respect of the entire faculty and student corps, besides the esteem of the University officials.

The library has been enriched by an addition of one hundred and sixty-eight volumes, the gift of Mrs. Ada F. Richardson, widow of the late Mason N. Richardson, who for twenty-seven years served the school, first as professor, and later as Dean. Supplementing this gift, the University itself has already placed, and by the time this memorandum appears in print will have finished placing, orders for approximately fourteen hundred additional volumes, thus bringing the library of the Law School considerably above the minimum fixed by the Association of American Law Schools.

Registration began on September 29th and will continue throughout October. It will be the last under the present requirements based on a high school course. The feature of the registration to date has been the high percentage of college men—the highest in the history of the school—numbered among the matriculates. This is a gratifying forerunner to October 1, 1924, when applicants will be required to show two years of college training.



The only change in the faculty of the St. Ignatius College of Law, San Francisco, Cal., is the addition of Mr. Edward Leonard to the staff in place of Mr. Frank Barrett.



The law school of Birmingham Southern College has been made a part of the Birmingham School of Technology, which is the Y. M. C. A. School in the city of Birmingham, Ala. The faculty remains the same, with the addition of Judge A. B. Foster, of Black, Harrison & Foster, who teaches Evidence, and Mr. F. W. Davies, who teaches Common-Law Pleading. The enrollment for the year has been somewhat discouraging, but is accounted for by the fact that the school has

been going through a transition period. The prospects for the coming year are encouraging.

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The Lamar School of Law opened in September with prospects for the best year in its history, with an enrollment about 15 per cent. higher than was anticipated.

The only change in the personnel of the faculty is the loss of Prof. B. D. Edwards, whose absence is regretted very much. His work was taken over by Professors Quillian and Gambrell, the former taking Sales and the latter Conflict of Laws.

It is a matter of great regret that the Dean of the school, Hon. Samuel C. Williams, formerly Judge of the Supreme Court of Tennessee, has indicated his intention to retire from the deanship at the end of this year.

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The University of Omaha School of Law reports the largest registration in the first year class in the history of the school. C. W. Sears, who will teach Constitutional Law, has been added to the faculty, and H. L. Mossman, who gives the Moot Court work. The entire Law School is taking a course in Logic under Dr. Jenkins. New courses in Witnesses and Mortgages have been added to the curriculum.

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The following changes have been made in the faculty of the St. Xavier Law College at Cincinnati: Charles S. Bell, Prosecuting Attorney of Hamilton County, will teach Evidence. Arthur Gordon will teach Wills, Clarence Spraul will teach Insurance, and Nelson Schwaab, Assistant County Prosecuting Attorney, will teach Partnership, to fill the vacancy caused by the death of Judge W. A. Geoghegan.

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Robert L. Myers, Jr., has been added to the faculty of the Dickinson School of Law, Carlisle, Pa., as Professor of Practice. Ellahue Harper has been made Professor of Corporations and Evidence.

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There is a large increase over last year in the attendance at the Temple University School of Law, Philadelphia. The changes in the faculty are the resignation of Andrew Wright Crawford, Esq., who had Real Property, Bills and Notes, and Sales, and the division of his work between two instructors. James R. Wilson, formerly Vice President and Title Officer of the Real Estate Title Insurance & Trust Company, of Philadelphia, becomes Professor of the Law of Real Property, including the special course in Landlord and Tenant law, and William A. Hamilton becomes Professor of the Law of Sales and Negotiable Instruments.

Owing to the large increase in attendance and to the lack of room necessary to accommodate all of the pupils desiring to enter the school, it has been determined by the Board of Trustees of Temple University to establish a late afternoon school, in addition to the evening school. The new session will begin its work at the opening of the February term, the hours of instruction being from 5 to 7, five days in the week.

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The University of South Carolina School of Law has been given the library of the late B. L. Abney by his brother, Col. John R. Abney. The library consists in all of about four thousand volumes of law books. With this addition, the law library now consists of about eight thousand volumes. There have been no changes in the law faculty during the past year.

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Recently there have been added to the faculty of the National University Law School Mr. Associate Justice Robb, of the Court of Appeals of the District of Columbia, who teaches Admiralty and is Associate Professor of Equity; Mr. Justice Jennings Bailey, of the Supreme Court of the District of Columbia, who is Associate Professor of Criminal Law and Professor of Equity Pleading and Practice. United States District Attorney Peyton Gordon is Associate Professor of Criminal Law. Major Gordon was one of the assistants to the Judge Advocate during the war, has been Assistant United States Attorney General for a number of years, and is the President of the District of Columbia Bar Association.

The new publications by members of the faculty are Rogers on Patent Law, Semmes on Patent Engineering, Jones on Equity Pleading and Practice, Koegel's monograph on Common-Law Marriages, and the first of the Historical Background Series published by the University, being a short outline of the history of the English Law of Real Property, by Dean Carns, of the National University Law School, and Dr. Putney, of the American University School of Jurisprudence. The University also has to its credit in recent years the Precedents of Pleading by Professor Kelgwin, late of the law faculty, and the combined text and case book on Torts by the same author.

A unique feature of the law school is that it has retained its former entrance requirements and does not require even one year of college work, but, on the other hand, accepts no immature students, and will accept no student whose tuition is paid through the school by parent or guardian, but makes it a condition of entrance that the student should be self-supporting. The average age of the first year class is in excess of twenty-

eight years and no students under twenty-one are accepted; 97 per cent. of the students are American-born. The faculty now consists of thirty-five members, of whom four devote their entire time to legal education. The new library contains more than five thousand volumes, including English and American reports. There has been added also a new moot court room, with a capacity of two hundred, and a new assembly hall, with a capacity of two hundred and twenty-five. The physical equipment of the school now compares favorably with any in the country. All classes are given in the evening, beginning at 6:30, and instruction covers fifteen clock hours per week. In all the principal subjects a text-book course is followed by a casebook course.

The National University has this year opened a School of Business Administration, with a four-year course leading to the degree of Bachelor of Science, and in lieu of four years of commercial law is requiring students in that school to take up the so-called commercial law topics in the law school. Students who have completed their law courses are given credit towards the Bachelor of Science degree. The new school has a large initial enrollment and a faculty of experts principally connected with the United States government.

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This fall the Hartford College of Law, at Hartford, Conn., entered upon the third year of its existence. The school has shown a steady and healthy growth, although the entrance requirements are a high school education or its equivalent. At least ten of the new students have had one year or more of college work.

The following new members have been added to the faculty: Mr. Austin D. Barney, who gives the courses on Property; Mr. James E. Cannon, who is teaching Criminal Law; Mr. John A. Markham, who gives the courses on Pleading and Practice, Equity, and Trusts; Mr. Albert S. Bill, instructor of Wills and Administration; Mr. James J. O'Connor, who has the subject of Torts; and Mr. Farwell Knapp, who will teach the law of Bankruptcy. The subjects taken up in the third year work are Property, Negotiable Instruments, Corporations, Partnership, Suretyship, Bankruptcy, Bailments and Carriers, Conflict of Laws, Constitutional Law, and Practice Court. In addition to these, we expect to have special lectures on Federal Practice and Procedure, Patent Law, Election and Revenue Law, Legal Ethics, State and Federal Courts, and History of Jurisprudence.

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Dr. N. W. Hoyles, K. C., having retired after nearly 30 years of services as principal of the Osgoode Law School, Toronto, Mr. John D. Falconbridge, K. C., has been ap-

pointed acting principal for the session, 1923-24. The only other change in the staff is the appointment of Mr. A. R. Clute as an additional lecturer. The school is maintained and governed by the Law Society of Upper Canada, and a committee of the Law Society is now considering the reorganization of the school.

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The School of Law of the University of Arizona begins its ninth year with the largest enrollment of students in its history. Exclusive of the students enrolled in the course of Business Law, the records show a total registration of eighty-seven students in the various law courses. Of this number, twelve are classified as "special" students, on the grounds that they are at the present time not technically candidates for a degree in law, although of this twelve, half are intending later on to complete the law course and secure the law degree. The enrollment for the present academic year shows an increase of fourteen over that of last year. The law library has been somewhat increased, and will be materially increased during the present year.

Professor Robert M. Davis, who was absent last year on leave as a member of the faculty of the School of Jurisprudence of the University of California, has accepted the Deanship of the Law School of the University of Idaho and terminated his connection with the University of Arizona. His place has been filled by the appointment of Professor Wm. B. Swinford, who under a temporary appointment filled the same position last year during the absence of Professor Davis on leave. The course of Business Law is being given under a member of the Law Faculty, and Mr. E. B. Frawley, of the Tucson Bar, has been added to the Faculty of the School of Law.

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There have been no changes in the faculty of the Law School of the University of Montana. The Law School is moving into new quarters, having taken over the old general library building, which has been remodeled to suit its needs. During the past year the school decided to admit no more special students, the rule going into effect with the present first year class. No student is admitted to the School of Law who has not had two years of college work. The immediate result of the change in rules is a slight decrease in the number of the entering class.

Incidentally it is worth noticing that the Supreme Court of the state of Montana has laid down similar requirements for those seeking admission to the Bar of the state by examination.

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University of Southern California Law School has just entered its twentieth year

of instruction. The school was organized as a department of the University of Southern California in June, 1904. Five instructors, who were connected with the school at the time of its organization, are now members of the faculty. Frank M. Porter, who was named as the first Dean of the University of Southern California Law School, still holds that position. Clair S. Tappaan, Professor of Law, and Judge Gavin W. Craig, E. W. Tuttle, and Thomas W. Robinson are the other members of the faculty who were on the staff at the time of the organization of the school and still retain their relation to it.

Professor Francis B. Sayre, of the Harvard Law School, was guest professor in the summer quarter, offering the course in Labor Law. Mr. Sayre's course was one of the most interesting of the summer group, and his instruction was an inspiration to the students.

The principal change in the faculty for the current year has been the addition of Paul W. Jones as full-time Professor of Law. Mr. Jones is a graduate of Northwestern University and of the Northwestern University Law School, and has been formerly connected with the Faculty of the Law School of Drake University. Mr. Jones is at present offering the courses in Evidence and Insurance.

A course in Corporation Practice has been added to the curriculum, and is being offered by Loyd Wright, Esq., of the Los Angeles Bar. This is a practice course, in which the students are required to prepare articles of incorporation, by-laws, minutes, application to the corporation commission under the blue sky laws, notices of assessments, declaration of dividends, etc. Mr. Wright offered this course for the first time in the winter quarter, 1923, and it has proven to be a very valuable and popular addition to the subjects given to third year students. Applications have been received from several attorneys of the city for permission to take the course in the winter quarter of this year.

Another new course is that of Trial Practice, based upon California cases, being offered by Charles E. Millikan, Assistant to the Dean. Other courses added this year include Mortgages, offered by Professor Jones, and Historical Jurisprudence, by Professor Tappaan.

Several thousand square feet of floor space have been added to the quarters of the school and have been set aside for the use of the library. Approximately a thousand volumes have recently been added to the library, in addition to regular subscriptions.



The School of Law of Southwestern University enters upon its tenth year with the opening of the current semester. The en-

rollment for this year will be in excess of two hundred students.

The School of Law has long been operating under the handicap of cramped quarters, but the long-anticipated new home of the University is now nearing completion and will be ready for occupancy December 1. The third floor will house the School of Law as well as the Law Library and Practice Court. Every facility for the comfort and convenience of students has been provided in the new home including lockers, store, drinking fountains, lunch counter, and gymnasium. The school is located within ten minutes walking distance of the heart of the retail business section of Los Angeles.

Several new professors have been added to the faculty for the coming year. Paul H. Bruns, LL. B., is teaching the course in Elementary Law; Leo Gallagher, LL. B., Ph. D., Contracts and Private Corporations; E. K. Stanton, LL. B., formerly on the editorial staff of the West Publishing Co., Evidence and Torts; Harold G. Calhoun, J. D., Personal Property.



Westminster Law School of Denver, Colo., a night school, entered its eleventh year in September, with the largest enrollment in its history. In June Westminster had the largest graduating class of any law school in the Rocky Mountain region.

The Supreme Court of Colorado in June raised the passing grade of Bar candidates from 70 to 75. More stringent rules for admission to law schools are also being considered.

Westminster has taken on two new courses this year: Legal Ethics, taught by Oliver Wolcott Toll, and Legal Research, taught by Charles H. Morris. Moot court has been changed from bi-weekly to weekly. The public is taking an interest in moot court trials, where questions of public interest are presented in the cases. Last year more than three thousand persons were turned away from the court house, unable to gain admission to one of Westminster's moot courts.

Prof. Allen Moore is teaching Common-Law Pleading supplanting Prof. Edwin Page, who left for Alabama.

Prize winners of the June class were Robert Charlton and Allen Moore.

A local law fraternity, the John Marshall Law Club, has been organized among the students.



The University of Colorado Law School writes that Mr. Joseph Ragland Long, sometime Dean of Washington and Lee University Law School, has been appointed Professor of Law in place of Mr. Herbert S. Hadley, resigned. Mr. Hadley has accepted the Chancellorship of Washington Univer-

sity, St. Louis, and has entered upon his duties.

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The faculty of the Law Department, Knights of Columbus Evening School, Washington, D. C., consists of the following: Judge Charles V. Meehan, Professor of Evidence; Henry I. Quinn, Professor of Criminal Law and Equity; Thomas W. O'Brien, Professor of Insurance; Thomas J. Fitzgerald, Professor of Torts; James B. Flynn, Professor of Agency, Sales, and Domestic Relations; and Leo A. Rover, Professor of Common-Law Pleading, Real and Personal Property, Contracts, and Negotiable Instruments.

The Law Department has been in existence for two years only. Therefore the law school has at present only first and second year classes.

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Prof. E. A. Gilmore, of the faculty of the University of Wisconsin Law School, who is now on leave of absence serving as Vice Governor of the Philippines, has had his leave extended for another year.

Assistant Professor Homer F. Carey, who took over Professor Gilmore's courses in February, 1921, retired from teaching to enter the practice of law in New York City.

Assistant Professor Ray A. Brown, A. B. and LL. B. University of Minnesota, S. J. D. Harvard, has been elected to take over the work of Mr. Carey.

Professor Howard L. Smith has been compelled to give up his work for the present semester on account of illness.

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Several changes in the personnel of the staff of the Law School of the University of Wyoming have been made since last year. Dr. Edwin W. Hadley, formerly of Stanford University, has been added to the staff as Associate Professor of law. Mr. J. G. Driscoll, Jr., has been appointed to succeed Dr. Harold Shepherd as Dean of the Law School. Dr. Shepherd resigned during the summer quarter, and has joined the law faculty of Stanford University. Mr. Charles G. Haglund, Mr. Thurman W. Arnold, and Mr. Albert W. McCullough remain for the present year.

The law school is occupying for the first time new quarters in the recently completed library building comprising practically all of the third floor of this building.

The construction of a court room is now in progress. The plan calls for a court room identical in all respects with the most modern of state courts.

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Miss Emma M. Gillett, Dean of the Washington College of Law for ten years and one of its founders, relinquished her active leadership recently to Miss Elizabeth C. Harris.

Miss Harris was graduated from the Washington College of Law in 1917 with the degree of LL. B., and has since that time been engaged in the active practice of law. In assuming her duties as Dean, Miss Harris will not discontinue her practice before the courts.

The College began its twenty-seventh year on September 28 with a large enrollment. Several new appointments have been made to the faculty. Mr. George F. Wells, formerly a professor in the Universities of West Virginia and Michigan and Dean of the University of North Dakota Law School, is teaching Partnership. Another new member of the faculty is Mr. Edward O. Wynne, Assistant Solicitor of the Department of State, a graduate of Harvard University, one of the Secretaries of the Embassy of the United States at Tokyo for several years, a participant in the peace negotiations at Paris from January to July, 1919, and a representative of the Department of State at the Institute of Politics, Williamstown, Massachusetts, in July, 1923. Mr. Wynne is teaching International Law. Mr. Raymond N. Beebe, formerly a professor in Chicago University, is teaching Federal Trade Commission Law.

Professor G. Bowdoin Craighill, who for a number of years has conducted a valuable course in Practical Pleading and Practice in the junior year, has resigned on account of the pressure of his private practice. The course will be continued under the direction of Mr. Edwin A. Mooers. Mr. Harry A. Hegarty will have, in addition to his regular classes, the course in Corporations. Mr. Lucian H. Vandoren has recently been appointed to serve as one of the judges in the Practice Court.

The Summer School, which was in session from June 18 to July 27, had the largest enrollment in the history of the College. From the record made this summer, it is fair to assume that the summer courses will become an important part of the work of the Washington College of Law.

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The College of Law at Stetson University, De Land, Florida, has now a faculty of seven men. The latest addition is Professor Benjamin M. Hulley, a Master of Arts from Harvard and a three-year Rhodes scholar, who is a Professor of Constitutional Law and International Law. Mr. G. P. Carson has been made Dean of the College of Law.

Last year the college went on a three-year basis in conformity with the standards of the American Association of Law Schools. The total for the year June 1, 1923, was thirty-two seniors, twenty-two juniors, and forty-two sophomores.

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Professor Harry L. Thompson has been added to the faculty of the College of Law

of the University of Florida. Professor Thompson holds the degrees of B. S. C. E. and J. D. from Florida, and also has taken the J. D. degree from Yale. He taught last year at the Mercer University Law School.

The attendance continues good despite the increase in entrance requirements, one hundred and eighty-two being enrolled to date, and the library is being enlarged.



Mr. H. L. Strozler has resigned as secretary of the Mercer University Law School, and Professor Rufus C. Harris, a graduate of the Yale University Law School, has been elected to fill that office, in addition to being a professor of law in this law school. Mr. Strozler is now teaching the subjects of Code Pleading, Common-Law Pleading, and Municipal Corporations.

In accordance with the notice given by the Mercer University Law School three years ago, there has been a complete reorganization of the school. It is now a standard three-year law school, the case method of instruction is used exclusively, the law library contains more than seven thousand volumes, and the faculty is composed of eminent jurists and graduates of Yale, Chicago, Harvard, Michigan, and other leading law schools.

Every requirement for entrance in the Association of American Law Schools has been met and application for admission has been filed.

One of the full-time teachers in the Mercer Law School is Dean Wm. H. Fish, who was Chief Justice of the Supreme Court of Georgia for a long period of time.

The new additions to the Mercer law faculty, beginning the year 1923, are Mr. Rufus C. Harris, LL. B., J. D. (Yale), and Mr. C. Baxter Jones, LL. B. (Yale).

The entrance requirements of the Mercer University Law School are those prescribed by the Association of American Law Schools.



The Loyola University School of Law, in Chicago, have enlarged their quarters in the Ashland Block, which is in the loop district. The faculty consists of three full-time professors and the other members of the faculty have all had academic degrees, as well as law degrees. The enrollment this year is the largest since the foundation of the school in 1909.



A reorganization of the Law School of the University of Notre Dame has taken place under the new Dean, Thomas F. Konop, former member of Congress, and former member of the Wisconsin Industrial Commission. An elective course of study has been adopted, and three new members of the faculty have been added. The library has been rearranged,

so as to provide a reading room and five hundred volumes have been added.



Drake University opened on September 24th, showing a slight decrease in the number of students enrolled in the College of Law. The adding of another year of college work as a condition for admission to the study of law and a strict compliance with such requirement is no doubt responsible for the decrease in attendance.

The law library has been enriched with many new volumes, bringing all the state reports up to the date of the Reporter System, and the better modern text-books have been added, to make as complete a law library as the times will afford. A new lighting arrangement has been installed, and reading room facilities have been added to accommodate the entire student body for supervised study.

The class schedule is arranged, so that classes come at sufficient intervals throughout the day to give adequate time between classes for the rewriting of notes, investigation of doubtful points, and the reading of citations. Casebooks have replaced the text-books that remained in one or two courses until recently.

Dean Hilkey has taken a leave of absence for the present school year, in order to pursue the special course for law teachers at Harvard. During his absence, Professor L. S. Forrest, who for the past four years has been Professor of Equity, will be Acting Dean.

Mr. Paul Jones, for the past two years Assistant Professor of Law, has accepted an appointment as Professor of Law in the Law School of the University of Southern California. Professor Jones is succeeded by Professor Morton Hendrick, a graduate with the degree of Bachelor of Arts, of the University of Michigan. Professor Hendrick comes to Drake direct from the practice. He has practiced law at Trinidad, Colorado, since his graduation from the University of Michigan Law School ten years ago.

A new resident instructor has been added. He is Mr. Arthur Herman, a graduate of Harvard College and of the Yale Law School. Professor Herman comes to the teaching profession from his practice in Birmingham, Alabama.

The complete Law Faculty for the coming year is as follows: Daniel Walter Morehouse, Ph. D., President of the University. Emma J. Scott, A. B., Registrar. Charles J. Hilkey, Ph. D., J. D., Dean of the College of Law. Leland S. Forrest, A. B., J. D., Acting Dean of the College of Law. William H. McHenry, S. B., LL. B., LL. M., Professor of Law. Arthur A. Morrow, A. B., J. D., Professor of Law. Morton Hendrick, A. B., J. D. Professor of Law. Arthur Herman, A. B., A. M., LL. B., Professor of Law. Eskil

Carlson, LL. B., LL. M., Instructor in Law. Lawrence De Graff, Ph. B., LL. B., LL. M., Instructor in Law. Hubert Utterback, A. B., LL. B., LL. M., Instructor in Law. Eustace W. Tomlinson, Law Librarian. Harold C. Cartwright, Clerk of the Practice Court.



The Vanderbilt Law School opened its fiftieth session with an enrollment of two hundred and five. This is the largest enrollment in the history of the Law School, with the exception of last year, and it is the more remarkable in view of the fact that at the present session the entrance requirements were raised to include one year of college work.

The Law School suffered a great loss during the past session in the death of Judge William K. McAlister, who for many years had given the course in Equity Jurisdiction and in Bankruptcy.

The course in Equity Jurisdiction will be given by Professor Thomas H. Malone, who has been added to the faculty, and who brings to his position a wide experience and scholarly learning in the law. Professor Malone's father was founder of the Vanderbilt Law School. Professor Malone has been President of the Tennessee State Bar Association and special judge of the Supreme Court of Tennessee.

The course in Bankruptcy will be given by Professor Albert A. White, who has also been added to the faculty. Mr. White is a recent graduate of the Law School, where he won the highest scholastic honor and has made a rapid rise in practice.

Dean John Bell Keeble has been made a member of the committee of the American Bar Association on the Codification of the Law.

The full time members of the faculty continue to be Messrs. Holden B. Schermerhorn, Charles S. Lawrence, and Chas. J. Turck.



Loyola University School of Law at New Orleans, La., began its tenth session on September 24, and at the close of registration there were 285 students enrolled, an increase of 30 per cent. over the preceding year. This total includes the students of the pre-legal classes which aim to give them such essentials of a collegiate education, particularly in Logic, Philosophy, and Constitutional History, and such other branches as have a direct bearing upon the study of law. These classes are conducted by the following members of the collegiate staff: Professors J. J. Walsh, S. J., Lecturer on Mental and Moral Philosophy; G. T. Crean, S. J., Lecturer on Literature; A. C. McLoughlin, S. J., Lecturer on Constitutional History; A. J. Bonomo, A. M., LL. M., Lecturer on Forensics.

Though Loyola Law School is essentially

a Civil Law School, meeting particularly the needs of Louisiana students, it has been determined to extend the scope of the curriculum, so as also to satisfy the requirements of common-law states, and for this purpose Hon. Wm. H. Byrnes, Jr., Judge of the Civil District Court, a graduate of Georgetown University, Washington, D. C., has been assigned the chair of Common Law, assisted by Mr. Alfred J. Bonomo, A. M., LL. M., also a graduate of Georgetown.

The newly appointed lecturers are: Mr. L. E. Hall, A. B., LL. B., lecturer on Municipal Corporations; Mr. Wm. Waguespack, A. B., LL. B., lecturer on Federal Procedure; Mr. Gordon Boswell, A. B., LL. B., lecturer on Admiralty; Mr. Ulysses Marinoni, A. M., LL. B., lecturer on Particular Contracts; Mr. Milton de Reyna, lecturer on History of Law; Mr. J. O. Hendry, A. B., LL. M., U. S. Naturalization Examiner, lecturer on Naturalization and Immigration Law; Professor J. J. Walsh, S. J., lecturer on Canon Law.

Professor Henry Curtis has been transferred from the History of Law to Agency, Privileges and Mortgages; Professor Chas. I. Denechaud has been transferred from Personal Relations and Property Rights to Successions, Donations and Testaments; Professor Bryan, from Code of Practice to Personal Relations and Property Rights; and Professor Rivet, from Agency, Privileges and Mortgages to Code of Practice.

This year the postgraduate course has the largest enrollment since its inception. The lecturers and subjects covered in this course are as follows:

(1) History and Sources of Louisiana Law, Mr. Henry P. Dart, Sr.; (2) Origin and Development of Legal Systems, Judge Breaur; (3) Canon Law and (4) Legal Philosophy, Prof. Jas. J. Walsh, S. J.; (5) Riparian Rights in Louisiana, Mr. James Wilkinson; (6) Legal Ethics, Prof. M. Kenny, S. J.; (7) Naturalization and Immigration Law, Mr. J. O. Hendry; (8) Legal Bibliography and Brief Writing and (9) Medical Law, Mr. Bonomo. One of the most popular subjects in the school is that of Legal Ethics, taught by Professor M. Kenny, S. J., the Regent of the school. This subject is taught to the junior, senior and postgraduate classes. The text used is Costigan's Cases.



The enrollment in the School of Law of the University of Mississippi is the largest in the history of the school. The first year class has an enrollment of fifty students, which indicates a still larger school next session. More than one thousand volumes have been added to the law library, meeting all the requirements of the Association of American Law Schools, of which the school is now a member. The next Legislature, which will convene in January, will be asked for an appropriation to build an annex to

the present law building, which has been outgrown.



The sixteenth year of the Portia Law School, Boston, Mass., opened September 24th with an enrollment of 331 women students, the largest in the history of the institution. The total registration is expected to reach slightly in excess of 350 before the closing of enrollments for the school year.

The school is gratified to learn of the recent election of Miss Elizabeth C. Harris, a former student of the school, as Dean of the Washington College of Law. Miss Harris is the daughter of Judge Robert O. Harris, President of the Board of Trustees of Portia Law School.

Beginning this fall, the subjects of all four classes are to be offered during each year. Hitherto, the junior and senior classes have been taught as one class, the subjects of the third and fourth years being taught in alternate years. This policy has necessitated several changes in the faculty. Professor Frederick O. Downes has been assigned the additional subject of Sales, and two new instructors have been added. Professor Thomas R. P. Gibb will teach Contracts in the day division, and Mr. Ralph H. Cahouet will have charge of the subject of Carriers in the day division.

Miss Edith L. Hurd, who graduated magna cum laude from this school in 1921, took a postgraduate course at Yale Law School last year, receiving her J. D. degree in June, as the only woman member of Yale's graduating class.

During the past summer, a new oil-burning heating plant has been installed and the School Library has been enlarged and removed to the third floor, where it occupies the entire main building.

The annual reception by sophomores to freshmen will be held on November 8th. About two hundred members of both classes are expected to be present.

A new elective course on Legal Ethics will be offered without charge to the members of the three upper classes of the school on three Monday evenings, beginning November 12th. The course will be in charge of Professor Lee M. Friedman, and will be limited to one hundred students.

In place of the regular weekly problem work in Carriers and Constitutional Law, a course in Legal Research has been substituted as required work for seniors, to continue until January. It is felt that this work in Legal Bibliography will be of much value to the students in teaching them how to search the authorities.



Northeastern University, School of Law (Y. M. C. A. Law School, Boston, Mass.) opens with a much larger increase in enrollment than had been anticipated. The fig-

ures at present show that 856 different students are enrolled in the school. This represents an increase of 29 per cent. over the enrollment of last year. When the January enrollment takes place the figures should easily go to 900 students.

The particular factor which is of interest, in connection with this significant increase in enrollment, is the fact that it has gone hand in hand with high standards, the Northeastern University, School of Law, being the only evening school in New England to require, as a prerequisite to admission to the school, graduation from an approved high school or fifteen approved secondary school units, which, of course, amounts to the same thing.

Mr. Mayo A. Shattuck, Harvard A. B. and LL. B., has been added to the staff to teach the course in Trusts and Suretyship. Mr. Shattuck replaces Campbell Bosson, who resigned for business reasons.

Owing to the large size of the sophomore class, it has been found necessary to divide that class into two sections. However, this sectioning has not necessitated any additional instructors owing to the fact that the instructors formerly teaching sophomore studies have each taken additional sections in their studies.

The school tried, as a supplementary means of admission last year, the Thorndike Test of General Intelligence for High School Graduates, which is used for admission to colleges and professional schools. The results of this test in predicting future success in the work at Northeastern was very gratifying. Of 33 men and women who passed the test, the average scholarship of the group was 73.3 per cent., whereas the average scholarship for the entire school was only 71 per cent. The highest average made in the freshman year last year was made by a woman who had sought admission through the Intelligence Test.

On the other hand, 19 men who took the test and failed petitioned the Committee on Admission for admission as special students, with the understanding, of course, that they could not receive the LL. B. degree. These men were admitted as special students after considerable deliberation, it being felt that they could not handle the work of the school. The result, as demonstrated by the first year of work, was conclusive, the average for the entire group being only 58.8 per cent. In other words, the Intelligence Test seems to have a very interesting part to play in college admission, particularly where mature students of experience and training are involved. There seems to be a reasonable prediction of ability for those who pass the test and a reasonable basis of exclusion of those who do not pass the test.

Another point of interest is the success of women, who were admitted for the first time to the school last year; the average of all

women being 77 per cent., whereas the average of the entire school was, as I have said, only 71 per cent. The thirty women who were admitted last year were very carefully selected from about one hundred and twenty-five applicants, and naturally could be expected to do better work. However, even taking this factor into account, their success in the school was extremely gratifying.



Suffolk Law School, Boston, Mass., reopened for its eighteenth year on September 17th with the largest enrollment in its history. The total enrollment this year promises to reach seventeen hundred students.

The new home of the school, the cornerstone of which was laid in August, 1920, by Calvin Coolidge, then Governor of Massachusetts, has already been outgrown by the institution. Last year the school was obliged to use its auditorium for the freshman class. Work is now busily going forward on a lecture annex, eighty-eight by forty feet, four stories in height.

The annex is being built by the school in the same manner as the original building, under the personal direction of Dean Gleason L. Archer. It will be ready for occupancy about February 1st, affording seating capacity for sixteen hundred students. It will be fireproof throughout, with the latest improvements in sanitation and ventilation, with automatic heat control.

Suffolk Law School is becoming more and more a training school for business executives, who are finding a knowledge of law a great business asset. Presidents and other officials of corporations, bankers, brokers, and others are found in large numbers in the school. Students are enrolling from all over New England, and even from foreign countries.

Several new faculty appointments have been made during the past year: Assistant Attorney General Joseph E. Warner, in Constitutional Law; Wilmot R. Evans, Jr., and Alexander R. Smith, Jr., in Deeds, Mortgages, and Easements; Francis P. Garland, in Evidence and Pleading and Practice; Frederick O. Downes and Arthur V. Getchell, in Real Property; Leo J. Halloran, in Equity; George F. Hogan, in Sales; Herbert S. Avery, in Bankruptcy; Jeremiah F. Kiley, in Wills and Probate; and Thomas J. Barry, in Partnership.

Twenty-six professors compose Suffolk Law School's faculty. Two professors have been assigned to each subject, one taking the 6 o'clock division and the other the 7:30 division, alternating every other week, so that each man meets the entire class.



The Northwestern College of Law, Minneapolis, Minn., in its endeavor to give the best possible service to its students, has rearranged the courses, by giving more time than

ever before to the more important courses, and has added courses in Municipal Corporations, Suretyship, Speaking in and Physicology of the Court Room, Legal Bibliography, and Brief-Making.

All of the members of the old faculty have been retained and William A. Anderson is again teaching at the school. There has been an increase of about 10 per cent. in attendance.



The Benton College of Law, St. Louis, Mo., opened its twenty-eighth session on September 17th. There are 145 students in the undergraduate law, 16 in the postgraduate law, and 65 in the collegiate department.

No changes have been made in the faculty for the session of 1923-24.



The following notes are given us by Dean McBaine of the University of Missouri School of Law:

Professor J. L. Parks, of this faculty, taught Equity in the summer session of Columbia University Law School this past summer.

Professor K. C. Sears, of this Law School, taught Criminal Law at Columbia University Law School this summer.

Professor J. W. Simonton, of this faculty, is on leave of absence this year, studying for a graduate degree at Harvard Law School.

Professor Merton L. Ferson, former Dean of George Washington Law School, Washington, D. C., has accepted a professorship at this Law School. He commenced his duties in September.

Mr. Frank Chambers, A. B. University, LL. B. Harvard Law School 1923, was appointed an assistant professor of law at the University of Missouri, and has taken over part of the work that Professor Simonton had.



The following is the report of the T. C. Williams School of Law in the University of Richmond, Richmond, Va.:

The present session opened September 14th. At the date of this report, October 22d, the enrollment was 132, 40 in the morning division and 92 in the evening division. In the former the first and second year subjects of the three-year course are offered this session, while in the latter the first and second of the four-year course are offered in addition to the third year of the three-year course given in that division prior to September, 1922.

The new entrance requirements, announced last year, calling for a gradual increase in the amount of academic preparation, went into effect this session. This year one year of college work is required of all candidates for the degree. In 1924-25 two years will be

required. The new requirements apply to both divisions.

No changes have been made either in the faculty or the courses. All of the instructors teach the same subjects in both divisions.



At a recent election of officers, the San Francisco Law School installed Mr. Leo H. Susman as President and Mr. Robert L. McWilliams as Dean. These men have been members of the faculty for a number of years, and their induction to their respective offices insures the school a growth in the student body and expansion in study. Both men are prominent in the profession throughout the state of California.

Among the recent additions to the faculty are Mr. John R. Selby and Mr. C. J. Goodell, leading members of the San Francisco Bar.

The courses in Equity and Constitutional Law have been increased eighteen hours each over previous years.

A very heavy enrollment for 1923-24 necessitated enlarging the quarters of the school. The total enrollment will be well over two hundred. Additions to the library have been very well selected, and the students now have access to approximately 2,000 volumes.



The registration in the Minnesota College of Law, in Minneapolis, is 430 students. There have been no changes in the faculty, which is composed of twenty-four members of the Bench and Bar of Minneapolis and St. Paul.



The University of Louisville Law Department has moved into its new building at 312 South Center street.

Grover G. Sales, a graduate of Harvard Law School, has joined the faculty of the Law School and will teach the subject of Insurance. Another new member of the faculty is William S. Hamilton, a Rhodes scholar and graduate of Oxford, and former instructor at the University of Kentucky. Mr. Hamilton will teach the subjects of Torts, Taxation, and Municipal Corporations. Other members of the faculty are: Charles B. Seymour, Dean; Neville Miller, Secretary; Judge Wm. H. Field, Leon P. Lewis, Robert F. Vaughan, Edward J. McDermott, Joseph S. Laurent, Perry B. Miller, H. M. Denton, Bernard B. Bailey, Joseph D. Peeler, and Harris W. Coleman. The University of Louisville is the second oldest law school in the South and its graduates number about 1,500, among which number are included many of Kentucky's most famous lawyers and judges.



New Jersey Law School has the largest enrollment in its history, 892 students. The library, begun last spring, has been complet-

ed, and makes available for the students one of the best working law libraries in the state. The architecture is collegiate Gothic, to conform with the present buildings completed in 1921.

The New Jersey Law School Press has just published Cases on Crimes by Professor George S. Harris, of the Law School faculty. This will be used for the first time in the freshman class. It is a casebook consisting almost wholly of New Jersey cases. Cases on Torts has also just been published by the Press. This is a collection of New Jersey cases by Richard D. Currier, and will be used by the freshman class. An entirely new method of presenting the course on introduction to Law has been used this year for the first time. Professor Harris has prepared a short pamphlet, entitled Legal Primer for Freshmen, and the instruction in his course has been based wholly on this primer. For the first time this course has included actual work in the library, to acquaint the freshman with the books he should be familiar with at the outset.

The summer session this year was conducted by Professor Lewis Tyree, of Washington and Lee University Law School.



The only faculty changes which have been made in the Chattanooga College of Law this year are the appointment of Professor C. W. Lusk as Judge of the Practice Court in place of Dan L. Fain, who has resigned on account of his change of residence from Chattanooga to Florida. Capt. R. B. Cooke, who has been on leave of absence for several years, having been serving as head of the United States Soldier's Home at Johnson City, Tenn., and later in the state of Maine, has returned to Chattanooga and taken up his work in the Chattanooga College of Law, being assigned as instructor in the subject of Bills, Notes and Checks.



There have been no changes in the faculty of the Washburn College School of Law this year, and no new courses have been added to the curriculum.



The Sacramento Law School, which was incorporated in 1921, providing a four-year course in law, is now conducting first, second, and third year classes. Thirty-five students are enrolled in the school, and a steady growth is assured.

Mr. Leo H. Susman is President, Mr. James D. Meredith is Dean, and Robert Johnston is Secretary. Names of leading members of the California Bar appear on the faculty.

The school is looking forward to June, 1925, at which time the first graduation will be announced.

The Law School of Cumberland University, at Lebanon, Tennessee, reports that there is an enrollment this year of 200 students, 160 juniors and 40 seniors, which is the largest attendance in the history of the Law School since its foundation in 1847.

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The Y. M. C. A. Law School, in Minneapolis, Minn., reports that there is only one change in the faculty this year. R. E. Driscoll has resigned from the faculty, and Joseph H. Colman, of the firm of Lancaster, Simpson, Junell & Dorsey, has taken his place. Mr. Colman is a Yale graduate, degree A. B. magna cum laude, also Yale LL. B. magna cum laude, and was the honor man of his class.

At a recent meeting of the instructors of the Y. M. C. A. Schools Hon. Oscar Hallam, formerly Justice of the Minnesota Supreme Court, was one of the speakers. Judge Hallam brought greetings from the St. Paul College of Law, and gave a brief talk on the rise of ethical standards in the legal profession.

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Taking effect in September, 1922, the College of Law of Syracuse University, at Syracuse, New York, required, under a notice given two years theretofore, that all candidates entering for the degree of Bachelor of Laws should have at least one year of Liberal Arts College work to their credit. Under a notice similarly given, and taking effect this present college year, all students entering the college, whether regular or special, are required to have at least two years of Liberal Arts College work. Both of these regulations cut down the registration somewhat.

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Prof. Roy C. Harding comes to the Willamette University Law School, at Salem, Oregon, as the new professor of International Law and Jurisprudence. Prof. Harding received his A. B. degree from Hillsdale College, Michigan, and his J. D. degree from the University of Chicago. For two years following he engaged in the general practice of law in Denver, Colorado.

The law school has an enrollment this year of 40 students. Beginning this year, a year of college work is required for admission. In 1925, two years of college work will be required for entrance.

Twelve members of the senior class took the state bar examination in July last and all members passed, giving the school a record of 100 per cent. There was a general failure of approximately 83½ per cent. of all who took the state bar examination.

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The Northwestern College of Law, of Portland, Oregon, has put into effect a four-year

course and has extended the case system of instruction to all courses. The faculty remains the same as heretofore, except that Mr. Borden Wood, a graduate of the University of Oregon Law School, has replaced Mr. Clarence J. Young, resigned. The student body has been divided into four law clubs, modeled after the Harvard plan, and these are affording practical instruction in brief-making, pleading, and legal argument to all of the students. In addition to the law clubs, there are the established legal fraternities, which carry on to a certain extent similar work. The school recently had the pleasure of a visit from Dr. Leonard J. Vandenberg, one of its early graduates, who has since attained fame as an African explorer. Dr. Vandenberg during the past year studied Civil Law at Rome, and lectured to the student body on that subject. As an adjunct to the course on Corporate Organization, Mr. W. G. Harrington, a graduate of the Emerson College of Oratory, of Boston, is giving a short series of lectures on Parliamentary Law.

Mr. Shelby L. Wiggins, president of last year's graduating class, has been appointed to represent the port of Portland in the Orient. He left for his new work in July, and was in Japan during the recent earthquake.

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The first year class at the University of Pittsburgh School of Law is somewhat smaller this year than last year, because the full effect of the discontinuance of the Combined Course is felt this year.

Professor Nathan Isaacs has been given a leave of absence for one year, to take charge of the Department of Law in Harvard School of Business Administration. His work has been distributed among the other members of the faculty.

Professors J. A. Crane and Calvert Magruder, of Harvard Law School, have published a selection of cases on Partnership to succeed Ames' Cases.

Professor G. J. Thompson has compiled the legislative acts and public documents relating to the University. This book has been recently published by the University.

Professor J. G. Buchanan is a member of the Advisory Council on the topic of Conflict of Laws of the American Law Institute.

Col. Richard H. Hawkins is the faculty representative to the American Law Institute.

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At the beginning of its third year, 34 students are enrolled in the law department of Furman University, Greenville, S. C., according to a statement made by Dr. J. Wilbur Hicks, Dean of the Law School.

The department of law was established by the Board of Trustees in June, 1920, and

work began at the opening of the 1921 session. Each year has seen an increase in the number of law students, and indications are that many additional students will enroll before the end of the present session. Much credit is due Dr. Hicks for the work he has done in organizing and building up the law school.

Under the Chicago University system of instruction used in this school, students can enter at the beginning of any one of the three terms of a session. The work of each term forms an individual unit of the work required for a law degree.

Work is now under way to establish the law library in a wing of the first floor of the general library. Until the present time, the law library has been kept in one corner of the general reading room, but, when the new room is remodeled, a whole wing of the lower floor will be devoted to the law department.

Before his election as Dean of the Law School, Dr. Hicks was a prominent attorney of Florence, S. C. He is a B. A. graduate of Furman, of the class of 1909, and holds a J. D. degree from the University of Chicago. He has also done postgraduate law work at Harvard.

John L. Plyler, assistant professor of law, is a B. A. graduate of Furman, having finished with the class of 1913. In addition to his work as a member of the faculty of Furman University, his practice as a member of the local bar, of which he is a well-known member, keeps him in constant contact with the latest decisions of law, and enables him to give instruction in practical problems met by a practicing attorney. He was admitted to the South Carolina Bar in 1921, after receiving an LL. B. degree from Harvard, graduating with that year's class. Before entering upon his duties as professor of law at Furman, he had several years of teaching experience in Greenville high school.

With the opening of the present session, Furman added a Department of Commerce, in which the commercial law course is being taught by professors of the Law Department. About 15 students have already enrolled in this department, and indications are that it will soon reach capacity proportions.



Several changes have occurred in the make-up of the faculty of the Law School of the University of South Dakota. In January, Judge Ellison G. Smith, of the Supreme Court of South Dakota, was elected to a professorship in the Law School. The courses assigned to him are mainly courses in practice, and in addition thereto he has charge of the moot court.

Assistant Professors Raymond F. Hellman and Whitley P. McCoy resigned at the end of the college year, and their places have

been filled by the election of Professor Edward W. Hope and Assistant Professor Lester W. Feezer. Professor Hope has just finished a year of study at the Yale Law School, and Assistant Professor Feezer, who is a graduate of the Harvard Law School, has recently been assistant director for a section of the State Board of Health of Minnesota.

The Law School Library has recently received a valuable addition of law books from the law library of the late Judge Andrews, who was at one time a circuit judge of South Dakota.



The Atlanta Law School began this fall its thirty-third year with a large enrollment. The faculty and staff are the same as during the past year. An increasing number of women are in attendance as students. Following the death of his father, in December a year ago, Mr. Hamilton Douglas, Jr., became Dean of the school. The school was founded in 1890 by Mr. Hamilton Douglas, Sr., who was its original Dean, and held office almost continuously up to the time of his death.



The enrollment this year in the Jefferson School of Law, Louisville, Ky., is the largest that the school has ever had. The only change in the faculty is the resignation of Henry E. McElwain, who was the instructor in the course on Real Property. He is succeeded by Oscar Bader, LL. M. University of Michigan, who is one of the solicitors for the Kentucky Title Company of this city. Last spring two members of the then senior class took the State Bar Examination held in Frankfort, being two of some forty-odd applicants from various parts of the state and country. The results, recently announced, rank these two men as first and third in grades obtained. They were Howard Van Antwerp, Jr., and G. A. Hendon, Jr.



Seven new members have been added to the faculty of the Kansas City School of Law, making a total of forty-seven members now on the law faculty.



The Dean of the College of Law of the University of Tennessee reports that Judge Robert M. Jones has been added a full professor of law to fill the position formerly held by Dr. John R. Neal. Judge Jones was last year a part-time instructor. He has now withdrawn from the active practice and will give his entire time to the College of Law.

Mr. Robert W. Muir, A. B. and LL. B. Minnesota, and last year connected with the faculty of the Law School of the University

of North Dakota, has come to this faculty as an Assistant Professor of Law.



Baylor University, Waco, Texas, has just completed a modern up-to-date library, as nearly fireproof as modern mechanics could make it. The cost of the building was more than \$250,000. It is four stories in height, the lower floor being used for classrooms; the entire fourth floor being given over to the Law School. On this floor are three classrooms, capable of taking care of 200 students; also a library and reading room. There is ample room for 10,000 books and reading room for 100 students. Already more than 4,000 books are on the shelves, and Dean Flowers states that within the year the number will be increased to 5,000. The Law School of Baylor University was established in October, 1920; 12 students entering that year. The first graduates received their diplomas in June, 1923. At the same time as these men, five in number, were awarded their diplomas, Judge Harvey M. Ritchie, Judge of the 74th District Court, McLennan County, Texas, handed to them licenses to practice law in the courts of Texas without having to take the examination before the Bar Examiners; this being made possible by the action of the Supreme Court of Texas, as expressed in an order of that Court, entered of record January 16, 1923, "exempting from examination graduates of the Law School of Baylor University."

The enrollment in the Law School has increased gradually in the years since its establishment; the enrollment for the fall quarter, beginning October 1, 1923, showing 60 bona fide law students.



James A. Condrick has been elected Professor of Law at the Catholic University of America. Walter B. Kennedy has resigned from the law faculty, to become Professor of Law at the Fordham Law School. Joseph J. Walsh has resigned, to take up the practice of law in Scranton, Pa.

The South Texas School of Law, Houston, Tex., was formally launched on Monday evening, September 24th. Judge John C. Townes, for many years the able and distinguished Dean of the Law School of Texas University, made the principal address, and Judge Sam Streetman, Associate Dean of the South Texas Law School, gave the matriculation address to the student body. Many distinguished members of the bar in the district were present. Only the freshman class work is being given this year in the law school, but the faculty is very much pleased with the start that has been made. Through the courtesy of the Harris County Library Association, the students have been given access to the court library, which contains about 20,000 volumes. The school is looking forward to the acquisition of a satisfactory library of its own.



The University of Memphis Law School opened the year with an enrollment of 125 students. At the beginning of the 1922 term, the course was changed from two years to three years.



The Wilmington Law School, Wilmington, N. C., has added to its curriculum a course on Legal Bibliography and Research. This school maintains a course of two years of study, each covering a period of twelve months, which is equivalent to a three-year school of eight months.



The Law Department of the Tri-State College, Angola, Indiana, opened this year with twenty-three students in its two classes. D. R. Best is Dean of the College of Law, and Charles A. Yotter is the other instructor in this department. Special effort is being made to familiarize the student with the theory and practical application of the rules of pleading and court practice. Two courses are given, a two-year course, and a three-year course. Each year consists of thirty-six weeks. A Blackstone Club is maintained by the law students, in which they take great interest.

The American Law School Review

An Intercollegiate Law Journal
S. E. Turner, Editor

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Classification of Law

By ROSCOE POUND

Dean of the Harvard Law School

[Address delivered at the Twenty-First Annual Meeting of the Association of American Law Schools, Chicago, December 28, 1923. The discussion following this address will be found on page 321 et seq. of this magazine.]

THE subject on which I am to endeavor to speak to you this afternoon is, as Kipling would say, most "filthy technical," and I feel, therefore, it would be a bit of an imposition for me to read a paper in which those filthy technicalities are probably gone into in a rather ultratechnical fashion. Instead, therefore, of reading a manuscript to you, I am going to ask your indulgence to talk to you somewhat informally about the main lines, and with reference to the details I will ask leave to print.

In the first place: I want to suggest to you that I have no extravagant expectations as to what we may accomplish through classification. I do not believe that any classification is possible that will do anything more than classify. I do not believe that we can expect to achieve a classification which will enable a lawyer or a judge, by merely excluding, and excluding through an analytical table, to put his finger infallibly upon the exact preappointed legal precept applicable to the problem that he may have be-

fore him. I do not believe that any classification is possible which will enable us to solve problems of substantive law. I do not believe that any classification is possible that will even help us greatly in solving problems of substantive law. In other words, the business of a classification is to classify. It is an important thing, but it is not a solving device, whereby we may obviate the difficulties which are inherent in the application of law and in the administration of justice according to the law.

I am going, therefore, to suggest to you this afternoon something about what I conceive to be the purposes of classification and the reasons that have led to different theories as to its purpose, something of the history of classification of law, something as to classification in the civil law, which has played, and is playing, a great part in shaping our ideals of classification in the common law, something of the history of classification in the common law, and then, if there is still time, and your patience appears not

to be waning, some suggestions as to an outline of a classification of the common law for our purposes to-day.

I remember my grandfather used to say that no one could confidently rely upon the spirit moving him after 50 minutes, and that what he might assume to be the moving of the spirit after 50 minutes was very likely to be his own willful pride.

In the first place, as to the purpose of classification: Roughly, I think we may distinguish, and more especially we may distinguish in the writing of the last century, two quite distinct notions as to the why of classification.

On the one hand, there is an idea that the purpose of classification is to exhibit a universal ideal plan of which each particular legal precept is a consequence, a universal ideal plan, of which each particular legal precept, as it were, is merely declaratory. Now, you will find that notion taking various forms. In its older form it is a natural law idea. There is an ideal body of natural law. Positive legal precepts are simply declaratory of the universal ideal natural law, applicable to all men under all circumstances, in all times, in all places, and, of course, that ideal body of precepts is organized on an ideal plan, and it is so ideally organized that each particular precept flows necessarily from the plan into which it falls exactly in the universal, logical arrangement.

In the nineteenth century, of course, we had given over that rationalistic way of putting the matter, that rationalistic way of looking at it; but we did not give over the universal ideal plan. We reached it in a different way. It was not reached by reasoning about the nature of man. There was not a universal ideal plan that exhibited the nature of man; but a universal ideal plan might be reached by analysis, by taking a developed system of law, or by taking the two developed systems of law in the modern world, by a process of comparative analysis we could arrive at universal ideal conceptions, a universal ideal plan, of which each precept, each conception, each institution, was simply a logical consequence, and into which each one would

fit in the logically predetermined fashion.

Another way of looking at classification was historical. By historical study we could work out certain lines of growth, we could find the orbit predetermined from the beginning of things, in which legal evolution was inevitably taking place. We could find certain historical lines along which law must of necessity arrange itself in its evolution in developed systems. It was always about the same plan. It was always a universalized version of the systematique of the modern Roman law. You could discover it historically, or you could discover it analytically; but that universal plan somehow or other always managed to betray its Roman pedigree in certain conceptions, into which, as I shall try to show you presently, we have vainly attempted to force the phenomena of our own law.

But another way of putting it in the last century was philosophical. There were certain conceptions, or perhaps there was a single fundamental idea, which was a moving force in legal history—perhaps an idea of free will, an idea of freedom. All legal precepts were logically derivable from that one idea, and classification was simply the working out of the inevitable, logical categories implicit in that one fundamental idea.

Now, I should not waste your time with this preliminary statement of ideas, which I think few assert to-day at least, in the extreme forms in which they formerly were asserted, if it were not that much in what we say and do in the way of classification has its roots in such modes of thinking, and hence it is necessary to rid ourselves of certain preconceptions, by going back and seeing where they come from, what it is that has given shape to them, if we are to achieve anything enduring in the way of a common-law classification, and so presently I shall take up the history of classification, and try to show you how it is that classifications of the Roman law have come to assume this supposed universal character.

But let me make these general suggestions at the outset. As I conceive it, it is not that legal precepts flow from the classification, but the classification or-

ganizes the legal precepts. It is not that legal precepts are necessary inevitable deductions from a classification, but rather they are, perhaps you might say, compromises proved by experience, which we are trying to put into the order of reason by our classificatory apparatus. And so we turn to a different conception of the purpose of classification, namely, that it is to subserve the ends of the legal order by making legal precepts more conveniently available, by arranging them so as to make them effectively teachable, by making them effectively—I am going to use Bentham's term—effectively cognoscible by preventing overlapping, by preventing repetition, by doing away with the conflicts that will inevitably follow, if one subject is dealt with in two places, and to make more effective the development of legal precepts to meet new situations.

As I conceive it, it is a purely ordering, systematizing process for the practical purpose of making legal precepts more effective for their purpose. But let us look again for a moment at the theoretical basis of the ideas of the last century as to classification.

In general, in the last century, the theoretical basis was analytical or it was historical. By a universal comparative analysis we arrived at a universal plan, or at certain universal conceptions, into which everything was to be fitted.

Austin, writing undoubtedly with reference to a projected codification of English law—Austin makes a distinction between what he says are necessary conceptions, and what he says are pervading notions. The necessary conceptions, he says, are involved necessarily in the very idea of an ordering of society by law in a developed state. Then there are certain pervading notions, notions that are generally to be found in legal systems, but are not necessary deductions from the idea of law in a developed society. Austin did not carry that out in detail, but we get the details in Holland's *Universal Comparative Anatomy of Developed Law*, a universal framework around which we are supposed to build our whole edifice of a modern legal system, a universal scheme into which everything can

be put, if not put analytically, as I said a moment ago; the theory of a universal classification was put historically, we could find by historical investigation certain lines of development, and those lines of development logically arranged themselves in a certain way, which exhibited our universal classification.

Now, you will see what the presuppositions of those modes of thinking really are. If we presuppose the idealistic philosophy of the last century, the reality is not in the actual phenomena of law. They are mere appearance. Behind that appearance is the reality of an ideal; that ideal, whatever it may be, is unfolding and developing. As it unfolds more and more into detail, it gives us the individual legal precepts. But, when we follow that course of development backward, we see the lines along which the unfolding of the details have taken place. We discover them analytically, or we discover them historically, but they give us necessarily and infallibly the one pre-appointed universal classification.

Now, let us look at the matter in a radically different way. Let us ask ourselves how classification began, and how our classifications with which we are familiar began, and what they really are, and what they really have achieved. Classification, in a way, begins very early. I suppose the first step in scientific treatment of a particular body of law is when lawyers began in common-law phrase to take diversities, or put differences; having two situations that are superficially alike, the given case is referred to one or the other. The two are distinguished in the beginnings of the Roman law; in the beginnings of our own law we see that crudest, earliest form of scientific treatment of legal material, the taking of a difference.

The next step is to put behind that difference a principle, or to refer the difference to a principle. Then presently another step is to state that principle in the form of a legal proverb or a maxim, until we gradually learn that maxims are a bit dangerous, and come to feel that we can understand a principle without necessarily putting it in oracular or proverbial form. But you will notice that in

the beginning of scientific treatment of a particular body of legal material, the moment that we refer a difference to this principle, rather than that, we begin in a sense to classify. Our classification takes the form of arranging phenomena about this principle, or about that principle, and for a long time that is as far as things go.

In the classical period of the Roman law in the Institutes of Gaius we come upon an institutional classification, which has a long history in this subject of classification. There is a division of private law into the law of persons, the law of things, the law of actions. As we now believe, this is probably somewhat older than Gaius. Gaius seems to have used manuscripts of somebody else. It is a very common thing for a law teacher to do. We all of us build upon those who have gone before us. But at any rate we meet, in the second century, in Gaius, with that Roman institutes system, as we call it, the law of persons, the law of things, the law of actions.

Now, we make a great mistake if we think of that as a nineteenth century analytical classification. It is something very different. That is not an attempt to take a body of legal precepts and divide them, so many under the law of persons, so many under the law of things, so many under the law of actions. It is an attempt to look at all of the phenomena of the legal system, or at all the legal precepts that go to make up the body of the law from three different standpoints: First, from the standpoint of the subject, the law of persons; then, again, from the standpoint of the object, the law of things; and then from the standpoint of the remedy. A great deal of criticism has been wasted upon the Roman institutes system by assuming our nineteenth century analytical ideas, and attempting to criticize this institutes system from that standpoint. We must notice that, while the Roman institutional books are arranged in that way, the Roman practical treatise, the Digest, is not arranged in that way. The order of the Digest is very different. This is purely an institutional system.

Now, when we come to the Digest, we

find that its arrangement is procedural. It follows the order of the Prætor's Edict. It is as if we should have a Digest of the common law, and follow the order of the Registrum Brevium; it is not analytical classification, such as we should think of. In a corpus juris, the two principal parts are the Digest, that part of the law which is in form juris made; and the Code, a compilation of legislation. Right at the start we violate all analytical ideas. Then we come to the Digest. We find, as I said, that it follows a procedural order, the order of the Prætor's Edict, because the Roman strict law, the period in which the Roman law was formative, was a period of remedies, just as truly as our common-law stage in our legal history was a stage of remedies.

In the strict law the law is thought of procedurally. The arrangement, therefore, is a procedural arrangement; and when you come to each particular title of the Digest, you see that same absence of anything in the way of analytical arrangement. The order of arrangement in each title is a most curious one. Justinian's commissioners divided themselves into three groups. One group dealt with Ulpian's Commentary on Sabinus, the strict law, and their work is usually put first in each title. The next committee dealt with the Commentaries on the Prætor's Edict, the part of the law which is prætorian, and, in the order that usually obtains the part that committee worked out stands next. The third committee dealt with the classical juristic writer, Papinian, and the jurists who wrote on the subjects dealt with by Papinian, and their work usually stands third in each title.

Then there was a certain unclassified residuum they had not been able to use, and they pitched this into a fourth part, under each title. Now, there is something for us to think about here. I suppose the two conspicuously successful re-statements of the law in legal history are the Digest of Justinian and the French Code Civil, and both of them, from an analytical standpoint, are horrible examples in the matter of classification. They have been eminently successful.

The one has been the quarry in which men have worked in the modern Roman law for centuries. The other has been the model for codes in nearly half of the world.

Well, then, we see that Justinian's compilation did not achieve much in the way of classification. There was a rather crude classification in the elementary survey from three points of view in the *Institutes*. But Sir James Stephen speaks rightly of "the confusion of the Digest," because of its procedural order, and the curious fitting together in a loose way of the product of the three committees. In the Middle Ages it was assumed that Justinian's legislation was authoritatively binding upon that mysterious something in which the Middle Ages had such a wonderful faith, the empire. All Christendom was organized in the church, and the empire, and Justinian's law was the law of the empire. It was authoritative, and could only be interpreted. Of course, we start with a very simple commentary, line by line, word by word, section by section, with no more order than Coke upon Littleton, but with the development of logic, with the development of the scholastic dialectical apparatus, the medieval jurists began to put order into each fragment. The commentators began to put order into each title, and they did that by an analysis of the title, and an attempt to state the results of their analysis in a system, a classification of the content. Then they carried that a little further, and began to analyze subjects by bringing together the titles of the Code and the titles of the Digest, dealing with the same subject. Well, there we have reflected, of course, the medieval faith in authority. Thus far Roman authority is the basis of everything. The classification is simply a logical drawing out from the Roman texts of what is logically implicit in them.

Then comes the Renaissance, and that wonderful faith in reason which superseded the medieval faith in authority. Authority has passed off the stage. Reason occupies the whole stage. Reason is going to give us an ideal universal plan, which will take the place of the authoritative, logical plan for which the schol-

astic jurists sought. And so with the Humanists, at the end of the sixteenth century, we enter upon the new stage of development in classification of the law, a stage in which men seek a rational classification of the whole law, not an authoritative classification of each particular subject. You see that brought out in the very title of one of the great books of the Humanists, Domat's *Civil Law*, in their natural order; the order that expresses itself naturally, the order that is not authoritative, but that expresses its ideal, its rational nature.

The foundations of modern classification are laid in the scholastic introduction of system into each title and each subject of the *corpus juris*, and in the Humanists' working out of a natural or rational classification of the whole law.

Then, in the seventeenth and eighteenth centuries comes the philosophy of natural law. Men say this is not merely a rationalization of the Roman law; it is an ideal plan of all law. The Roman law simply embodied reason. It is nothing but declaratory of a universal plan of an ideal body of precepts, and our reason gives us this universal plan, to which all law must conform, in which all law may be arranged. It is a system of natural law, by which each body of local law may be tried, of which it is really but a reflection. Thus our Roman scheme has become a universal scheme.

Now, when we come to classification in the civil law, as I say, it begins with the Humanists. I won't attempt to rehearse any of these schemes, except the classification of the French Civil Code, in which, perhaps, this period culminates. That will give us some ideas that we can carry forward.

The classification of the French Civil Code is a curious one. It starts with persons. Then property. Then under property comes modes of acquiring property. Those modes of acquiring property are inheritance and succession, contract, quasi contract, delict, quasi delict, marriage, partnership, agency, pledge and mortgage, and our Code is complete. It startles us to be told that contract and quasi contract and tort are modes of acquiring property, but that is the arrange-

ment of the French Code Civil, and the Code has worked very well, in spite of that crude and artificial arrangement, because, if you know where to find the Code provision, it does not matter much that your analytical arrangement will hardly stand analysis. The truth is we have got there that same Roman idea of looking at things, first from the standpoint of the subject, then from the standpoint of the object, then from the standpoint of the remedy. But the latter is turned over to a Code of Civil Procedure, so that part of the Roman scheme is simply cut off.

In the nineteenth century, with the development of analytical and historical legal science, we get a vastly improved civilian arrangement. In the civilian treatises, particularly the treatises on the Pandects in the nineteenth century, the usual order is this: First, a general part. Under that general part we have the law of persons. Then we have some generalities as to things, then a great development of the theory of a legal transaction—of a willed action intended to produce a legal result, to which the law gives the intended legal result—then some discussion of exercise and protection of rights, self-help and self-redress; then comes the special part, divided into the law of property, the law of obligations, family law, and the law of inheritance.

Now it strikes a common-law lawyer as curious to separate the law of inheritance from the law of property; but that is universal in civil law countries. The reason is not far to seek. It is not in the nature of things. It is in certain historical accidents of the development of Roman law. In Roman law the law of inheritance bulks disproportionately large. Three books of the Digest are taken up with one subject of legacies. Why? Because Roman society was much nearer to a kin-organized society than our own. Contracts is the subject that bulks large with us. Inheritance is the subject that bulks large in the Roman law; and as the analogies to which lawyers had to turn continually were to be found in connection with legacies, there was an enormous development of that subject. It

was the quarry in which they worked everywhere in the law, so that the law of inheritance got an utterly disproportionate development, which is preserved in the civilian treatises to this day.

Now I take it there is nothing there for us but a warning. These are practical matters. The subjects that are practical, that have the most importance, will get the most thorough-going analytical development. But we cannot reason universally, and say these subjects are universally and eternally of that disproportionate importance.

On the other hand, if we are so severely analytical that we put such subjects in a little corner in the dichotomy or trichotomy, we may sacrifice practical utility to purely abstract considerations. If you look back over the development of classification in the civil law, then you will see that what it has done has been to exhibit to us, in a convenient, systematic, orderly way, legal precepts as developed for historical and for practical reasons in the Roman and the modern Roman law.

Let us now turn for a few moments to classification in our own law; I suppose you will smile when I start with Coke's Institutes. At first sight there is no classification there at all. Yet there is. The first institute is land law. The second institute is constitutional law. The third institute, pleas of the crown, is criminal law. The fourth, jurisdiction of courts, is the foundation of the law of remedies. You see there is an attempt to arrange the law conveniently: Land law; constitutional law; criminal law; the organization and jurisdiction of the courts. When you remember that the law of freehold estates and procedure were about all there were of the law in Lord Coke's time, you will see that is a perfectly good practical arrangement of the material. But when it comes to the details of classification, when an idea occurred to Lord Coke he put it down in the margin of the text that happened to suggest it to him, and then, if something occurred to him later by way of amplification, he might put it under that text, or over under another text, that also suggested it. So there is a complete and bewildering absence of any systematic arrangement in

the details of Coke's Institutes, and the only attempt to satisfy the demand for convenience, the demand for what Bentham called "cognoscibility," in our common-law books, from the sixteenth to the nineteenth centuries, took the form of alphabetical abridgments. There are some who think our alphabetical arrangements are on the whole to-day the most useful and successful arrangements that have been achieved in English-speaking countries.

So much for arrangement in the strict law. Lord Hale's adumbration of a classification hardly deserves notice in this connection. He did not carry it out, except with respect to criminal law.

Now we come to natural law influence, and come to the well-known arrangement of Blackstone's Commentaries. There, I think, a vast amount of analytical criticism has been misdirected. When you look into Blackstone's arrangement, it is not a nineteenth century scheme. You are familiar with it: Rights of persons; rights of things; private wrongs; public wrongs. Rights of things, co-ordinated with rights of persons, makes us smile. What is Blackstone driving at therein? He uses rights in that connection, thinking in terms of natural law of the eighteenth century. Certain morally assertable claims, that the law recognizes and gives effect to, can be thought of either with respect to the subject, rights with respect to persons, or looked at with respect to persons, or with respect to the object, rights looked at with respect to the object. Now you see there is the Roman institutes system, with its distinction of standpoint—subject; object; persons; its property. To that the Romans added actions. The action part got divided by Blackstone into private wrongs and public wrongs. It is a purely procedural distinction, as he makes it; the procedure is a private action or a public prosecution. So the action part of the Roman scheme is divided accordingly.

Of course, the thing in Blackstone's arrangement that at once strikes us to-day is the curious classification of constitutional law under the law of persons; the purely feudal notion that the public officer is a private person, who, because of

his ownership of land, has certain jurisdiction and his prerogative is beyond question. There we have a feudal thinking of public law in terms of private persons, more or less persisting in schemes of classification, even to the present.

Now in the nineteenth century new factors come into play in our classification of the common law. One is a very thorough-going dissatisfaction with the alphabetical arrangement of our abridgments, a very thorough-going dissatisfaction with the chaos of such books as Williams' Saunders, or Coke upon Littleton, or Coke's Second Institutes, and a turning, you might say, in desperation to the relative order and system of the civilian treatises. And thus we find in the nineteenth century text-books in England and America, which played a very great part in the formation of the law as we know it to-day, that civilian arrangement of particular subjects were often almost controlling. A great many of our ideas were dictated, or at least were shaped, were given form, through these civilian classifications.

You take such a book as Washburn on Real Property; then turn from that to Gray's Cases on Property; then turn to any modern casebook on certain subjects—and see how many ideas of the commentators on the French Code run down into our present arrangements of the internal content of the law of property. Take just one point. A great many may have noticed the curious consideration of what we call natural rights; that is to say, claims with respect to the use of water, right of support, things of that sort, as rights in another's land. Well, you will find the clue to that in the eighteenth century civilian treatises, the French Civil Code, and the commentators on that Code, and so on down through the treatises on real property.

The other factor was that English analytical jurists, at the very beginning of our Anglo-American analytical jurisprudence, came in contact with the metaphysical and historical jurisprudence of the continent. Austin was trained in jurisprudence and the Roman Law in a German University, and you can trace on every page of Austin's Jurisprudence the

systematic ideas of the civilians in the first quarter of the nineteenth century.

When you come to Holland's university anatomy, or universal framework of modern systems of law, it is nothing but a somewhat universalized version of the arrangement of any nineteenth century treatise on the Pandects, and an attempt to force the phenomena of the common law into universally stated civilian categories.

Now, take some of the relatively recent attempts at classification in our own law. I will speak only of two. In 1902 the Committee of the American Bar Association on Classification has made an elaborate report. I will not attempt to state the details to you, but the main outline is interesting. It starts with persons, and under persons, along with what we commonly understand by persons, corporations, etc., comes public law—of course, following Blackstone. Then come property and actions. Under actions come contracts and torts. Then we pass to crimes, and our main outline is complete.

Take the main outline, which we are told, in the preface to the Century Digest, governs the arrangement there. There we have a better arrangement under seven heads: Persons; property; contracts; torts; remedies; crimes; government. There are those seven heads. But notice that, under contracts, we have got quasi contract, public utilities, and trusts. There are some pretty uncomfortable bedfellows in that category of contract, when you come to treat your analysis as anything serious, as of any utility, beyond remembering conveniently that you will find something under that particular head. In other words, if you know the classification and know the law, well and good. The law will not teach you anything about the classification, and the classification will not teach you anything about the law, and yet that is a very workable scheme. Thousands of lawyers for years have used it, and have found it perfectly workable.

What are we to conclude from this rather hasty and general sketch of the history of classification? A number of points have suggested themselves to me, but I want to bear only on one or two.

Certain ideas in classification have entered into the substance of our law. The analytical adaptation of the civilian classification in the nineteenth century played a real part in developing more than one subject, and wherever it has done so we ought not to give it up. It is not a question of universal analysis. It is a question of conveniently dealing with materials that have arranged themselves in a certain way. On the other hand, where we have traditional lines of classification that are purely classification, that do not involve the substantive law, there is no reason why we should adhere permanently to feudal ideas that are out of line with everything that has happened in our law since the seventeenth century. There is no reason to classify public law under the law of persons. We ought to give up the Blackstonian tradition in this respect.

Then, again, our system of classification, I say, ought to be characteristically common law. It ought to proceed so as to give effect to characteristic common-law ideas, and to bring out the characteristics of common-law institutions. We ought not to try to force the phenomena of the common law into civilian categories, into a civilian scheme, on a hypothesis that the better is universal. It is not universal. It has been made by civilians for 'civilians' purposes, but under the influence of the belief that the Roman law was embodied reason, which was very convenient after the Reformation in continental Europe when it was no longer possible to say that the corpus juris had a legislative authority. Now we have not been under that political necessity in our law. We can look objectively at this scheme. We can see that it does not impose itself upon us to any extent, beyond such convenience as may be involved in using it.

With some such ideas as those first sketched, I set myself to see what might be done in the way of a main outline of the general features of a classification which should deal with the topics that we ordinarily treat in the law school; for, if we can arrange those subjects, we may then go forward and try the matter out

with reference to some things that are a little more remote and more difficult.

If you will look back over all systems of classification, one thing will stand out, namely, a tendency to deal with law first from the standpoint of the subject, and next from the standpoint of the object. That method seems to have made good from second century Rome to the present, and it suggests to us at once the law of persons and the law of things as categories that we may conveniently use. Then we get certain problems. In all civilian schemes of classification, there is a division into a general part and a special part. Can we utilize that division? What are we going to put into our general part? Well, the civilian usually puts the law of persons there. Shall we put the law of persons there? The civilian usually puts there the general principles of a legal transaction. Shall we do that?

Well, I am going to digress to answer that question, as it appears to me, because it is a crucial question. My own belief is we should make a mistake if we tried to do that. I don't believe that the conception of the legal transaction is valuable for us, except for analytical jurisprudence and comparative law. In other words, our law has not developed, if you like, any such generalization. You have to do violence to particular institutions, particular precepts, in our law to make them fit into that conception of a legal transaction, and my judgment is that, if we were to have a general part dealing with the generalities of a legal transaction, and then our special parts, contracts, sales, agency, and what not, the net result would be that our special part and our general part would continually be in conflict, either potential or actual, and that would do more harm than any benefit that we might derive from a general treatment of legal transactions in the general part.

If we cut out the theory of the legal transaction, we shall probably cut out duress and fraud and mistake. They will not be dealt with generally in our general part. We shall leave them to be dealt with as they come up in the special part.

There are many other problems I might suggest to you, but let us go on

now to our possible arrangement. I will assume we set off public law and private law, and that we are dealing with private law. I think we might have a general part to this extent, and it would be a common-law general part, not imitated from any civilian arrangement. We need a general part, I suppose, to deal with the forms of law and application of law; the interpretation of statutes and the application of precedents. Also I should be inclined to think those problems of the application of law, which we think of as the conflict of law, should go in the general part. Thus we have got a workable common-law general part.

Then we turn to our special part. Well, we think right off of the law of persons, involving, of course, not only capacity, or incapacity, of natural persons, but certain legal entities, such as corporations. Here, also, I should be inclined to put their analogues in the way of business associations, associations for profit, and associations not for profit. It might seem curious to you to treat partnerships and associations there along with corporations; but in the view of the way the law seems to be going, with the development of business trusts and other agencies of that kind, I should not be surprised if, for practical purposes, we should find that next to corporations should come these analogues of legal entities. If they are not legal entities, we have to deal with them more or less through analogies of legal entities.

Next, of course, comes property, and there all common-law lawyers would agree on putting the law of inheritance. We have not any necessity for keeping that subject separate, as historically the civilians feel compelled to do. Then next I should be inclined to put a great body of the law to which we might give the name of "liability."

Now, "liability" is a broader term than the civilian's term "obligation." I do not think we can exactly use the civilian's "obligation." The civilian's conception is that, where you have what the English analytical jurists call a right in personam, the claim of one definite person, as against another definite person, there is a relation whereby one may exact, and the

other is subject to the exaction, and that relation he calls "obligation." But out of that category of obligation he removes a number of things for historical reasons, which we are not obliged to remove, and, indeed, which cannot very well be removed. The duty of the husband to support the wife, and the claim of the wife to be supported, in the civilian arrangement, would come under family law, not under the law of obligations. Yet with us the ordinary mode of enforcement in such cases, an action upon quasi contract, fits into the system of what we should put under obligations.

If, however, you use the civilian term "obligation," you are liable to import civilian ideas along with it. Hence I should be inclined to put next "liability" in its most general meaning, and then perhaps preface that with what we call "damages"; that is, those precepts that have to do with the measure of liability. Then I should put liabilities flowing from act, liabilities flowing from relation, and what we might perhaps call equitable liabilities. To take these in detail, we have first liabilities flowing from an act, contract in the widest sense, including contract in the narrower sense, bills and notes, sales, insurance, suretyship. You see the idea there, those applications of contract.

Then another great head: Torts. Now you might, with Judge Smith, divide into tort and quasi tort. Judge Smith would like to say that, where there is culpability, there is tort; where there is liability, without culpability, there is quasi tort. That is a civilian distinction. Our law of torts has developed around certain analogies that have given it a coherence which would be violated need-

lessly by such a distinction. I should be perfectly satisfied to call the whole subject by the name of "tort."

So much for the liabilities arising from act. Then we have liabilities arising from relation, family law, as domestic relations, public service by private agencies, agency, and trusts. There we have cases where liability is annexed to or flows from a relation. And then, finally, I should put equitable liabilities imposed on equitable principles to prevent an unjust enrichment of one person at the expense of another; that is, quasi contract.

What have we got left? We have left the enforcement of law, procedure in its widest sense, and all which that subject involves. We have four main headings, which have developed with our legal precepts themselves. They have grown up around persons, property, liability, and enforcement. I should try inside of those main heads to keep as carefully as I could to the common-law lines of development. I should try to bring out in classification the characteristic common-law ideas, in the belief that presently those who come after us, if we do that, will be able to find that a common-law classification is just as universal as the civilians' arrangement of the phenomena of his law. But, as I said at the outset, I do not imagine that we shall achieve anything by an arrangement of this kind, however universally we put it, beyond an increased convenience, beyond making our legal materials so ordered, so systematically arranged that we may find them more effectively, that we may teach them more effectively, that we may apply them more effectively, that we may develop them more effectively for new situations as they arise.

The Law School Summer Session

By HENRY CRAIG JONES

[Address of the President of the Association of American Law Schools, delivered at the twenty-first annual meeting at Chicago, December 27, 1923. The discussion following the President's address will be found on page 314 et seq. of this magazine.]

EXPERIENCE and investigation indicate that law school summer sessions have resulted in varying degrees from four creative causes.

One of these causes has been the desire to offer a method of shortening the calendar period needed to complete a standard law school curriculum. This opportunity has been found attractive to ambitious and mature students, anxious to complete the law course and try their professional wings as quickly as possible.

A second motive has been to furnish instruction in law for such persons as school-teachers, who are unable to attend law schools during the regular academic year, and desire to complete a considerable portion of their law school course in summer sessions, before giving up their meal ticket jobs. Numerous beginning law students, as well as students previously enrolled in other law schools, have been led by these opportunities to schools offering full summer sessions.

A third influence has been the plea of the flunkers for an opportunity to make up work failed on during the conventional academic year. This has caused some summer sessions to be attended in considerable measure by inferior students from their own and other law schools. Iowa has been contributing for several years its share of such students to the summer sessions of other law schools.

A fourth motive—and one by no means without force—has been to furnish summer work with additional pay to members of the law faculty. In some law schools the salaries paid for service during the academic year are not adequate, and on most law faculties there are men who need or think they need the addi-

tional money secured by summer teaching more than they need the vacation or the opportunity for study and research which the summer recess gives. I think that some of us know of summer sessions created for the faculty as much as for the students.

It is difficult to find in the curricula or the announcements of the large majority of law school summer sessions any expression of belief that the summer session has other functions or possibilities of service than those I have mentioned. The subjects offered are usually merely a cross-section of the regular year's work, and without any peculiar appeal to the bar, as distinguished from law students. The teachers usually belong to the regular staff of the school, or some other school, and if a judge or a practitioner be added to the staff, he is usually asked to teach an orthodox curriculum subject, such as Sales or Private Corporations.

With this outline of what seem to be the chief reasons which have promoted summer sessions of law schools thus far, may I now suggest some different, and I believe more important, uses and purposes which the summer session might serve, but has not served adequately, if at all, thus far.

The first purpose which I offer is not a wholly new suggestion. It is that the summer session be used to lengthen the period for law study, so that the student may cover subjects which the time limitations of the three-year curriculum now prevent him from taking. This additional time will enable a student to take one or two courses concerned with comparative law, and with the historical and philosophical foundations of the law, or

more work dealing with the mechanics and technique of practice, or some of the substantive courses now included in most law school curricula, but regarded as of lesser importance, and not taken by many students.

In our discussions in this Association as to the need for a four-year law course, we have all come to realize that the three-year curriculum is too short, and already too crowded in the regular academic year, to permit the introduction of additional work of the nature I have mentioned. We have also discovered that there is considerable aversion on the part of students to the four-year course in law, and that comparatively few can be induced to take it, so long as the standard period of law study specified by boards of law examiners is three years. Under these circumstances, I submit again, what has been suggested before on the floor of this Association, that the proper answer to these demands is to use the summer sessions.

A requirement that, after the completion of the first academic year of law study, the student be required to complete ten weeks of summer session work in addition to the remaining two academic years, would increase the present three-year curriculum approximately 10 per cent., would do much to meet the needs and demands to which I have referred, and would not be an undue burden to the student. He might do it in two, five, or six week periods, or accomplish it all in one summer. If he is a flunker, but not too great a flunker, he could still make up in the other summer the work he had failed on in the regular year.

And in passing it should be noted that in numerous universities this proposed summer session would in fact scarcely more than restore time taken within the past few years from the regular law school session, to make a longer summer session possible for the College of Liberal Arts, the Graduate School, and the College of Education.

The second purpose which might be served by the summer session has already been suggested in part in mentioning the possibility and the need of offer-

ing for advanced students more instruction in the mechanics and technique of practice. In this respect law schools do not serve their students so completely as medical, dental, and engineering schools, nor, in my opinion, so completely as they might. With this may be connected a related object of making the law school summer session also the means of closer contact between the law school and the state, by rendering to the bar particularly, but also to the state generally, service similar in its nature to that rendered by medical schools to the medical profession, by agricultural colleges and experiment stations to farmers in short courses and farmers' week, and by teachers' colleges to teachers.

I recognize that to some of you this last suggestion may seem impractical or unsound, and I admit that the analogies may not be entirely complete. Nevertheless, I think the underlying possibilities of usefulness are much the same, and in marked degree have been unimproved by law schools thus far. Some suggestions for carrying out these purposes are as follows:

First. In the summer session of this type, I would offer no courses, such as Contracts or Torts, found in the first year of the orthodox law school curriculum. It seems to some law teachers that it is a mistake to give first-year students unbalanced rations through the study of only two subjects at a time, as must be the case where two first-year subjects are completed in a summer session. Studying nothing but Contracts and Criminal Law or Torts and first-year Property for ten or twelve weeks at a stretch seems like eating nothing but meat and pie for that length of time, and must tend to produce similar effects upon the mental digestive processes. The necessary lack of correlation when first-year subjects are offered in the summer session seems a sufficient reason for giving no first-year courses. If work for students beginning the study of law be offered at all, it seems to me that it might best be in legal history.

Second. For students who have completed only one year of law study, orthodox courses in substantive law might be

selected from those offered in the regular session, and for them might also be given courses in legal history and legal philosophy.

Third. For students who have completed two years of law study additional courses dealing with the mechanics and technique of practice, in addition to those customarily offered in the regular session in most law schools, might be given. The general course in the practice of the state in which the particular law school is located, which is usually offered to third-year students in the regular academic year, need not be given; but other courses, dealing with various special kinds of office practice that early come to the desk of the young lawyer, might well be offered. Such courses may at times be found of interest to younger members of the bar already in practice.

Two of the most profitable and popular courses of this kind are examination of abstracts of title and administration of decedents' estates. Students who have completed two years of law school work usually have for such courses the necessary background of instruction in property, wills, and equity jurisdiction. My suggestion is that these courses be given, not as lecture or casebook courses, but as problem courses. The course in the administration of decedents' estates should carry the student through the actual processes of probating at least two estates, one under a will and the other under the statutes of descent. States of facts of common experience can easily be prepared, and the instructor conducting the class can act, when necessary, as probate judge. There is usually so little actual trial work in such matters that as to nearly all of the most useful work the elements of reality can easily be realized.

The course in the examination of abstracts of title can be made just as real as though the title were examined and the opinion prepared for an actual client. To give it this actuality it is only necessary that the work be the examination in fact of real abstracts of title. Actual abstracts are easily procured. From them the instructor should select those which best bring out the questions which

are fundamental and will be met first and most often in passing upon titles. For this purpose twenty to thirty abstracts are usually sufficient, if chosen under the same principles of selection that are applied in choosing cases for a casebook.

Like the cases, parts which deal with topics to be considered under other cases or of relatively little importance may be omitted, by simply substituting for the grantee's name in the last conveyance before the omitted transfers the name of the grantor in the first conveyance after the omitted portion. Mimeographed copies should be placed in the hands of the class. The preparation from day to day should be the writing and submission of formal opinions on these abstracts of title in succession. The classroom work should be analysis of the title presented in the abstract under consideration, criticism of the opinions of title prepared by the members of the class, and lectures on new topics. It is submitted that such work has every element of reality to be found in the clinical work of a medical or dental school or in the field work of an engineering school. In this, as in other lines, instruction carefully planned and given by an expert is preferable to unguided self-instruction or the scattered directions of the average practitioner. It is one of the many things the law school can do for a student better than the law office.

Another so-called clinical course that might be offered for students with a background of two years of law study is drafting of legal instruments. Again it seems to me that there are no inherent difficulties in making this work just as real as the field work of an engineering school or the clinical experience in a medical school. It can make no difference in its value as training whether it is an authentic client or a law teacher who requires the drafting of a deed or a partnership agreement, provided the problem be one of common experience, and what is desired be clearly understood, any more than it can be of consequence, in measuring its training value, whether an engineering student surveys a field for his instructor or for a client.

At the end of the third year of law

study still other so-called clinical courses may be offered. One, for example, might be in the organization and management of corporations. A student is hardly fitted for this work until he has completed the orthodox course in the law of private corporations, which usually comes in the last year of the law curriculum. Here again the work should be problem work in drafting papers, holding stockholders' and directors' meetings, and the like. The class can be organized at one time as the meeting of a board of directors, and at another time as a stockholders' meeting. A secretary of state's office can be established for the purpose of filing papers. The necessary blanks for incorporation can be obtained easily from the proper state officials. The work of the course can be made to cover organization, issuance of common and of preferred stock, issuance of bonds and of debentures, annual reports, reorganization, and other things common in the life of a corporation, with the essential reality of actual transactions. The younger members of the bar, as well as students, will be interested in this course.

Another course which can also be given to law graduates with high success as a problem course is on dealing with the mechanics of income and inheritance taxation, as distinguished from the connected problems of constitutional law and of conflict of laws, which most law graduates have already covered. Here again all the necessary blanks can be secured from the proper governmental offices. The work in making out returns for farmers, merchants, or professional men, or decedents' estates, can be made as real as though done in an office and for a fee. Indeed, it probably would be possible to secure many actual cases. This course, like the course in organization of corporations, generally should be open only to members of the bar or students who have completed three years of law study.

There are numerous subjects, some of constant importance, and others of changing consequence, to students and members of the bar, which are not of sufficient value to call for long-extended

consideration. Perhaps they do not require more than two, or at the utmost six, lectures, but still are of much interest and significance. Examples of these are the topics of mechanics' liens, state appellate practice, practice before the local public service commission or the state compensation commission, new problems of the county attorney's office, problems under the federal railway employers' liability act, the issuance of county and municipal bonds, drainage law, new problems of federal practice, and new problems of public utility law, such as those created by the new motor bus and motor truck business, new problems under recent federal or state legislation, and particular questions as to improvement of substantive law and procedure.

These can be grouped into a series of open lectures, constituting a general course continuing throughout the session, or one or more topics can be made the subject of a so-called conference, to which all persons in the state who are particularly interested in the subject may be invited. If several series of such lectures are grouped into a course, credit can be given, if desired, by asking each special lecturer to prepare one or two examination problems, and having one member of the faculty mark the papers written in the examination at the end of the course. For these lectures the best men in the state should be procured. For example, a member of the public service commission might be the best person to give the particular lectures on practice before the commission, and a member of the staff of the Attorney General or a highly successful county attorney might give best the lectures on new problems of the county attorney's office.

And in this connection permit me to say that summer is the only time when members of the bar have the opportunity to come as students or as participants in conferences on legal topics, and it is also the only time of year when members of the bar who are experts in particular topics can be procured to teach subjects for which they are peculiarly fitted. Men who could not be induced to give a course on examination of abstracts of title, or on taxation, or on the organiza-

tion of corporations, or even a short series of lectures during the academic year, when their office and court work demand undivided attention, can be secured for summer session courses and lectures.

Young men who graduated with high rank from first-rate law schools five to fifteen years before, and who have specialized in the particular line taught, may prove particularly successful in such work. At Iowa our experience in using men of this type has been most satisfactory. They are close enough in time to the law school of to-day to be familiar with and in sympathy with modern methods. They appreciate the need of most careful and conscientious preparation themselves. They realize the importance of arranging their courses so that the students must work. They know that what is needed is more than simply telling the boys how to do it. To such men an appointment of this kind is an honor, as well as an obligation, which will be performed thoroughly and conscientiously.

The last, but by no means the least important, feature of the summer session I have in mind, is one or two conferences on legal topics of peculiar and timely local interest. For example, in a state where there is no real public service commission, and the regulation of public utilities is chiefly in the hands of the city councils, a conference on the legal questions involved in public utility rate-making and regulation was held, to which were invited the mayors and city attorneys of all the cities in the state. The speakers included two prominent city attorneys, the experienced and highly efficient mayor (also an attorney) of the state's third largest city, a member of the Legislature (also an attorney) who had introduced a bill dealing with telephone regulation, the general counsel of one of the state's largest public utilities, the general counsel of the American Telephone & Telegraph Company, a member of the Iowa Board of Railroad Commissioners (also an attorney), and an engineer of high standing and long experience in the valuation of public utilities.

Subjects for papers and discussion

were: Regulation and the Telephone; Telephone Rate-Making and Regulation in Iowa; Motor Bus Rate-Making and Regulation in Iowa; Practice and Procedure in Rate-Making by City Councils under the Iowa Statutes; and Methods of Inventorying and Valuing Public Utilities. Questions which arose were considered chiefly in their legal rather than their engineering or accounting aspects. In this way a law school summer session created a clearing house free from politics and propaganda for the exchange of ideas on legal matters of great public importance, not only for those present, but for many others, through publication and distribution of the full proceedings. In this state there have been many requests from those who attended and from others for its repetition another year.

Possibly the motor bus and motor truck question may be the one next considered. The needs on these lines change and vary from state to state. In the same state where the conference on public utility legal problems was held in conjunction with the law school summer session, the Attorney General has pointed out the desirability of a conference of county attorneys for consideration of new problems in their work. His suggestion that law students in the summer session might profit has merit. The fields of administrative law, procedural reform, and criminal law offer excellent and timely topics for summer conferences.

By reason of their neglect or incompetence in teaching the mechanics of practice, and their want of serious effort to serve other persons or groups than their students, law schools to-day as a class are without sufficient reason twenty-five years behind the medical schools in the comparative effectiveness of their professional training, and equally backward in their influence with the profession and with the public. Twenty-five years ago medical graduates were turned out to learn how to practice at the expense of their victims, and the same is in considerable measure true as to law schools to-day. It is true that law schools, even with the assistance of legal

aid societies, cannot supply the raw material for experience in trial work so completely as clinical material for operations and diagnosis is furnished to internes in hospitals, but in other respects the opportunity and the need are the same.

Lawyers as a class are not much interested in law schools. When the law diploma is received the separation usually becomes complete and final. On the other hand, physicians are much interested in medical schools. This is because medical schools do much for their profession, through teaching new methods and new remedies in summer clinics, and by sending out medical graduates with medical knowledge and technique which the average physician admires and craves for himself. If it be said that the habits and attitude of the medical profession differ in this respect from those of the legal profession, my suggestion is that there seems to be no fundamental reason for such unlikeness, and that the legal profession might form the same habit and acquire the same appreciative attitude provided the law school offered to the legal profession similar service. Farmers took little interest in agricultural schools, so long as they taught only students; but when they taught something for the farmer himself, and did something to show him how to improve his crops or his stock, he gained interest. Why cannot the law schools in their summer sessions do something of the sort? If the law school cannot run a summer clinic for lawyers, cannot it do something else approaching it?

At Iowa the law school summer session of 1923 followed the lines I have suggested. Eighteen of those enrolled were members of the bar. Two of these had been members of the bar for several years, but had not practiced. Three had been in active practice for from one to five years. The others were men who had been admitted to the bar just before the summer session commenced, but considered it worth their while to add to their law training six weeks more of the sort of work I have indicated. One of them writes: "Your ideas as to emphasizing in the summer session the practi-

cal side of the law cannot be too highly praised." Another, who is now assistant attorney for a trust company, writes: "Last year's summer school has been a great help to me. I believe that every one who took advantage of it holds the same opinion." More than a score of lawyers were among those who attended the conference on public utility rate-making and regulation. The moderate success of one conference under its own peculiar conditions does not guarantee success for such a program at all times and anywhere, but it counsels hope rather than despair, and clearly indicates that the experiment is worth further development.

Lawyers, as well as students, would be interested in courses like examination of abstracts of title, organization of corporations, and income and inheritance taxation. Older lawyers may not attend, but law firms ought gladly to send one of their younger attorneys to a law school in the summer for special training in a course which explains the nature and suggests the remedies either for a new legal disease or for an old trouble, provided the young man upon his return will be able to handle such cases better than any one else in the office. An older, experienced lawyer, while unlikely to attend an entire summer session, may be particularly interested in some conference, or in some special series of lectures, such as the issuance of county or municipal bonds, or drainage law or practice, under some new act or before some new board or commission.

Summer session work of this kind should accomplish at least two desirable ends:

(1) It will make possible a lengthening of the law school curriculum, thereby enabling instruction in the historical and philosophical bases of the law, and additional work in the mechanics of practice and the art of advocacy, to be offered without increasing the period of law study beyond three calendar years, and thereby producing graduates with broader and deeper historical and philosophical foundations for their legal careers and greater skill in using the tools of the profession. In this way the de-

mand for the four-year course can be met in some measure. It gains for law schools the worth while respect and good will of those members of the bar who now regard our instruction as too theoretical and impractical, and does so without reducing or changing in any measure the amount of instruction now offered in the regular academic session in those subjects which we regard as fundamental.

Experience at Iowa, Minnesota, and Chicago, and in other law schools, shows that some students will avail themselves of the opportunity to take summer work of this sort, even if no part of it be required, and even though it will not bring nearer their day of graduation. This is particularly true when the work offered is more closely related to what a student considers the realities of practice. Students frequently complain of their inability, from lack of time, to take many courses they desire. The summer session gives the opportunity. Many improved it at Iowa last summer, though they knew that by reason of the system of year courses in vogue there they could not thereby hasten for a day the time of their graduation. Desire for additional instruction was the sole motive. To the law review editor it gives an opportunity to lighten his classroom burden a bit or gain advance training in some subject, so that he can better handle review cases coming under it during the following year.

(2) Through rendering new and better service to the bar and to the public, it will promote a higher appreciation of the

usefulness and importance of thorough legal education. It will create new bonds of mutual understanding, and thereby facilitate co-operation between the bar and the law schools.

Contact in common endeavor will give the doers of the word and the sayers of the word a better appreciation of each other and of their common aims and interests. Contact with the living law and the living bench and bar will make the law teacher less a closet instructor, will put him more in touch with realities, and thereby fertilize law teaching with new plans of usefulness. To the practitioner should come a new vision of the end of law, and of the importance of the social interests, which should be weighed in reaching the balance of advantage which must govern. Both should come to regard the law functionally. The combination of effort in the American Law Institute and the essential unity of standards as to legal education now reached by the American Bar Association and the law school association are encouraging signs of better understanding. Summer sessions and summer conferences will in like manner promote this same co-operation among smaller units.

The summer session, developed along the lines I have suggested, and combining the efforts and interests of both law teachers and practitioners, should do much to give to law schools that needed influence with the bench and the bar and with the public in matters of legal education and the administration of justice that medical schools now exercise as to medical education and the public health.

Teaching Pleading so as to Meet Future as Well as Present Needs

By O. L. McCASKILL

Professor of Law, Cornell University

[Paper read before the "Round Table Conference" on Remedies at the annual meeting of the Association of American Law Schools in Chicago, December 28, 1923.]

THE law student of to-day will be the legislator, lawyer, judge, and law teacher of to-morrow. In each capacity he will play an important part in shaping the administration of the law. To-day he may intend to play his part in Massachusetts, New York, or Pennsylvania. To-morrow may find him in Illinois, Florida, or Texas, and ultimately he may be functioning in Kansas, Utah, or California. However local he may consider his interests, the accidents of time may compel him to enlarge his horizon. If he intends to become a lawyer of vision and consequence, and it is the duty of every law school, whether of a state or endowed university, to inspire him to be such, if he can, he cannot be bounded by state lines in his procedural education. If the state of his choice be a code state, he finds federal courts sitting therein with their separate jurisdictions in law and equity. To-morrow these courts may adopt the one form of civil action of the codes or some other system of procedure. He is living in an age of change, if not of progress, and the procedure of his state may change overnight.

Despite his wishes there will be a change for better or for worse, and, whether he be legislator, lawyer, judge, or law teacher, he will play his part in shaping the change. Though he never enter the Legislature nor ascend to the bench, by his conduct, his arguments, his teaching, or his writing he will be directing the legislative and judicial mind. He will assist in bringing about a simplification of procedure, or he will misdirect

and retard the best efforts of those more enlightened. It is one thing to originate a system of procedure which is at the same time rational and simple, and to obtain its passage through a Legislature or its promulgation in the form of rules of court, and it is quite a different thing to have this system function rationally and simply after it is declared to be the law. The cause of rationalization and simplification of procedure is only begun when a Legislature or body of judges is induced to pass a helpful set of rules.

There is no more forceful illustration of the fact that legislation alone will not bring the desired procedural reform than the fate of Field's Code of Procedure. No one familiar with his breadth of learning, legal acumen, high purpose, and drafting skill can avoid expressing surprise and regret that his instrument of simplification and rationalization has all too frequently been converted into a highly technical instrument, with little or no reason in it. Instead of a rule of reason we have been given a rule of thumb, and instead of simplification we have been given complication. The pitfalls of the old procedure have given place to the pitfalls of the new. In many respects there has been decided improvement. In other respects it is quite likely there has been an actual loss.

We are all familiar with the inhospitable reception given this Code by bench and bar generally, and some of the earlier distortions due to this frame of mind. With a few possible exceptions the writers of some of the opinions we condemn were not unmindful of their

duties to enforce the law as written, despite their personal views as to its desirability. The trouble was more deep seated than this. Their minds were honest, but provincial. Accustomed methods of doing things had become matters of substance, assuming fundamental characteristics, because any other way of doing these things lay beyond their experience. The practicability of any other method was seriously doubted. The bench and bar generally had not traveled, observed, read, nor thought as deeply upon the subject as David Dudley Field. Some disciples he had, or the codes would never have been passed, but the lawyers of experience and breadth of vision were too few, and unskilled as well as unsympathetic minds began to distort. The superficial characteristics of the common-law and equity systems were fairly well known, but when that which was superficial was sought to be destroyed, and only that which was purposeful was retained, it seemed as though something entirely new and unfamiliar had been substituted, and, like all laymen in untried and unknown fields, they must needs proceed by rule of thumb until they could become acquainted with the possible consequences of a more liberal interpretation.

We charge the early failure of the codes to reactionary judges, but in most of the code jurisdictions there have been no judges wedded to the common-law and equity systems for several generations. In the main they have been sympathetic to the system which has been handed down to them, and they have been striving to give it effect as they think it was intended it should be given effect. Many of these judges are unquestionably able. Their scholarship is quite generally conceded. They are not narrow-minded. But, though friendly to the codes, they produce results as bad, if not worse, than the reactionary judges.

Let me take an illustration from my own state, a decision by the New York Court of Appeals, composed, as you all know, of judges of great ability, some members of which are even accused of

being too progressive. The action¹ was a mechanic's lien case by a subcontractor against the contractor and owner, in which the owner denied only the right to a lien against his property, and the contractor, in addition to a general denial, served a counterclaim setting forth that plaintiff wrongfully abandoned the contract, and claimed damages. Upon plaintiff's motion the issues as to the right of plaintiff to a money judgment against the contractor, and of the contractor's right to a money judgment against the plaintiff, were stated for jury trial, and the verdict of a jury taken. The jury returned a special verdict, saying plaintiff was entitled to a stated sum from the contractor, and that the contractor was not entitled to recover anything from plaintiff. Plaintiff brought on the remaining issues for trial at special term, taking the position that the verdict of the jury was conclusive as to the facts found by it. Defendants' contended it was advisory only. The trial court adopted the view that it was conclusive, but found that the lien notice had been filed too late, and refused to grant equitable relief, giving plaintiff a personal money judgment against the contractor. The latter appealed, and the question brought before the Court of Appeals was whether the verdict of the jury was to be treated as a common-law verdict, or as a verdict in equity. The learned court, after pointing out the equitable character of a mechanic's lien action, held that the plaintiff, by combining a request for legal and equitable relief, waived *his* right of trial by jury, but that he could not thereby deprive defendant of *his* right to jury trial either of plaintiff's claim against him or of his counterclaim against plaintiff. Its conclusion was that as to plaintiff's cause of action the verdict of the jury was advisory, but as to defendant's counterclaim it was binding.

The strangeness of this decision lies in the holding that the same action can be equitable as to plaintiff but legal as to defendant; as to plaintiff there has

¹ *Di Menna v. Cooper & Evans Co.*, 220 N. Y. 391, 115 N. E. 993.

been a merger of legal and equitable remedies into one cause of action, which is equitable, and triable in its entirety by the court; but as to defendant it still has separable equity and legal features which have not been merged. The plaintiff, by joining a legal with an equitable remedy, waives his right to jury trial, but the defendant, by bringing a legal counterclaim into an equity suit, does not lose his jury trial by such a joinder. As to plaintiff it is an equity suit, but as to defendant it is a law action. That it might possibly have been a *code* action as to both, that a code action may have some of the characteristics of a law action and an equity suit, and yet not be wholly the one nor the other, does not seem to have been considered by the court.

In arriving at this peculiar result the court thrice referred with approval to a previous opinion, which is the Scylla of this Charybdis. In that case² plaintiff and defendant owned adjoining parcels of land. The defendant erected a building, the foundation of which extended several inches over the boundary. Plaintiff brought an action to recover possession of that portion of his land thus appropriated by defendant, and obtained a judgment. Upon a return by the sheriff that it was impractical for him to carry out the execution putting plaintiff into possession, plaintiff brought a second action to compel defendant to remove the obstruction. In denying this relief the court announced that plaintiff had but a single cause of action against defendant, entitling him to both legal and equitable relief, that he could not split this single cause of action, and that the penalty of failing to request the equitable relief in the first action was a waiver of that relief. In arriving at this result the court expressed the opinion that the substitution of the one form of civil action for the separate actions at law and suits in equity had the effect of enlarging the cause of action, as previously known, so that it embraced both legal and equitable reliefs, and that this enlargement was a matter of compulsion and not of option.

The result of the two cases, taken together, is that, when a plaintiff has a right to two reliefs, one legal and the other equitable, the penalty of uniting them is the loss of a jury trial of the legal issue, and the penalty of not uniting them is the loss of the equitable relief. The defendant, regardless of whether he or the plaintiff does the uniting, suffers no penalty whatever. There was no dissent by any members of the court.

The problem dealt with was one of joining and severing causes of action. That a single common-law cause of action could not be split is well known, but it is equally well known that distinct causes of action which could be joined might also be severed. Within a limited field, it was not thought fair to defendant to harass him with multiple suits, if one would do; but the principle was not one of general application. Even in equity there were many optional joinders, and, so far as I have been able to discover, equity never denied a right to present relief, because it might have been obtained in connection with some former suit. The court evidently had in mind what happened when a plaintiff, instead of seeking his legal relief separately in the law courts, combined it with the facts entitling him to equitable relief, and took the whole into the equity forum. In such a case all issues were treated as equitable, and tried in the same manner. Neither plaintiff nor defendant had a right to jury trial of the issues which, if dealt with in the law courts, would be considered as legal issues. In equity a merger was effected, and for all practical purposes there was but a single cause of action. The plaintiff could thus enlarge his cause of action, so that it called for both legal and equitable relief.

This was the single cause of action the court had in mind in the second of the above suits. But in applying to the single cause of action thus obtained the rule forbidding a splitting of a cause of action the court went far beyond the application made under the old procedure. It not only overlooked the option in the plaintiff to sever legal and equitable is-

² *Hahl v. Sugo*, 169 N. Y. 109, 62 N. E. 135, 61 L. R. A. 226, 88 Am. St. Rep. 539.

sues by choosing the separate forums, but it also overlooked the fact that there were many situations, even in the law courts, where plaintiff could merge two causes of action into one or proceed upon them separately. A common illustration is where plaintiff could treat injuries to chattels and personal rights accompanying a trespass to lands as an aggravation of the trespass, recoverable in trespass under the *per quod* clause, or recover for them in separate actions.⁸ The rule against splitting was confined to the narrowest possible scope of a cause of action, and was never applied to its larger scope. The elastic character of the cause of action escaped the court. By his choice of remedies the plaintiff determined the scope and the character of the cause of action, whether legal or equitable, and the defendant was bound by his election. The court overlooked the latter fact in both of the cases to which I have called your attention.

In the mechanic's lien suit the court saw the merger effected when a plaintiff took legal issues into equity; but, if a merger was effected, it was a merger as to defendant as well as plaintiff. If it was an equity suit, it was an equity suit as to both, and defendant had no right to a jury trial. Defendant's counterclaim was either a cross-bill in equity, or it was a separate action at law, permitted to be brought into the action by the code. If it did not lose its legal character when brought into contact with equitable issues, it would seem that plaintiff's legal issues were not necessarily changed in character when he connected them with his equitable issues. If the one form of civil action of the codes permits a joining of legal and equitable causes of action, and the section on joinder of causes of action says that it does, what happens when such a joinder is made? If the plaintiff may still merge the two causes of action into one, and I have no doubt that he can, he has but a single cause of action, calling for two reliefs.

The provision for a separate statement of multiple causes of action does

not apply, for he does not have multiple causes of action. But may he not avail himself of that provision to separately state his legal issues, thereby indicating that he does not wish to effect a merger? The code section on joinder of causes of action is permissive, not compulsory. There is nothing in the Codes to indicate that he may not now, as formerly, proceed in two suits and escape the merger. Since the code forum is neither an exclusively legal nor equitable forum, and legal causes of action may be united with equitable causes of action, if they are separately stated, it would seem apparent that a plaintiff may have all the privileges in a single code action that he could formerly have in two actions in the separate forums. Defendant's counterclaim in the mechanic's lien action was nothing more than a separate statement of a legal cause of action. If he can separately state and obtain a jury trial of the issues so stated, it would seem that there is no good reason why plaintiff may not do so likewise. The court got mixed between permissive and compulsory mergers, and arrived at the peculiar result of making the merger permissive as to defendant and compulsory as to plaintiff.

This result was due, in my judgment, to a failure on the part of the court to realize that the problem was a most complicated one, requiring a patient and careful consideration of the interplay between several of the code sections, and the historical background and development of these sections. The problem seemed much simpler than it was, as procedural problems frequently do. I do not think the blame lay on the framers of the code sections. To one having the background the framers had, the language employed might well be thought to convey a very clear concept. To one without that background it is most perplexing, and inconsistencies and contradictions are constantly appearing. The keen minds of the learned judges perceived a half truth only, just as other keen minds are bound to do, if they fail to realize the importance of procedural research. This is not an isolated instance of able modern judges failing to

⁸ *Bennett v. Alcott, 2 Durnford & East, 166.*

keep particular decisions up to their usual high standard. It is characteristic of their decisions interpreting the Code. Despite their undoubted ability, and no one respects them more than I do, they have thrown no light upon this field, but have rather added to the confusion already existing.

It would be an irrelevant impertinence on my part to single out decisions of a particular court in order to set up my opposing judgment. Such is not my purpose. My aim is not to prove who is wrong or who is right in the solution of a difficult problem, but to demonstrate, first, that the problem is difficult, and, secondly, that its solution requires study of a particular field, a study which is all too frequently neglected. If I have demonstrated my own ignorance in my criticism of the able court, I have but demonstrated that I need to devote more study to this branch of the law. Fields and Wigmores, with their wealth of technical knowledge in the field of procedure, in addition to their broad social vision, must initiate our sound reforms, and then we must have a bench and bar with a measure of the same knowledge and vision to make the reforms effective. The leader and those whom he leads must speak a common language.

A knowledge of mechanics alone will not suffice, but will tend to perpetuate the meticulous and technical lawyer. The development and purposes of the mechanics, and an observation as to when it has and when it has not accomplished its purpose, is involved in any true technical knowledge. This knowledge cannot be had without comparisons and weighing. Just as a comparative study in any other field of law tends to broaden the vision of the lawyer making the study, leading him away from and not toward technical applications, so I am convinced that a comparative study of various systems of pleading will not only lead to a better knowledge of a particular system, but will tend to do away with the technical pleader. It will fit him to practice intelligently and decently under present systems, and prepare him for the changes which are to come.

I had been teaching common-law and

equity pleading several years before I was called upon to teach code pleading. I very soon became convinced that not only common-law pleading but equity pleading also was a necessary background for any intelligent study of the codes. In reading the notes of the code commissioners I found constant references to both of the old systems, and frequently a clear statement that this or that principle was intended to be adopted from the former practice. Their discussions of the one form of civil action, and of the distinctions between actions at law and suits in equity which could be done away with; their discussions of features of the equity bill which could better be taken care of by provisions applicable to both law and equity suits; their adverse criticism of the arbitrary limitation on joinder of parties at law and their commendation of the more flexible and convenient rules in equity which, they said, should receive a more general application; their comment on the split form of judgment of the codes patterned after the equity decree—these, and many other things, inside and outside the mere text of the code, led me to believe that the code was an evolution and not a revolution, and that much of the old procedure was being retained and shaped to serve larger purposes; that the law action and the equity suit were not being abolished, but that they were being brought together into one forum, and those artificial distinctions between them abolished which would hinder them pulling together in double harness.

To make a principle theretofore applicable in equity alone of general application was to abolish distinctions as effectually as to adopt an entirely new principle. But I found that no place for equity pleading had been allotted in my curriculum, and that this subject seemed to be disappearing from most of the curricula. With the curriculum already overcrowded, and with more time for common-law and code pleading at my disposal than was given in most of the curricula, I felt that, if equity pleading was to be given, it was incumbent on me to effect sufficient economies in the time I then had to make room for it.

As there is much duplication in the three systems of pleading, I came to believe that the duplicating parts could be studied effectively together. This led to the thought that contrasting parts could likewise be so treated.

In teaching common-law pleading, particularly in a code jurisdiction, I found it extremely difficult to keep the class alive to the importance of what we were studying. Despite my best efforts to enliven the subject, many thought it dry and uninteresting. Mental gymnastics for the sake of mental gymnastics did not appeal to them. I could exhort them to be patient until we came to a study of code pleading, when they would see the practical bearing of what we were studying; but my exhortations fell upon listless ears. They studied because they felt the need of passing the stiff examinations which they knew had eliminated many of their predecessors. It occurred to me that I could improve my pedagogy if I could relate some of this supposed obsolete material more closely to modern problems.

With the idea of effecting sufficient economies to make room for what equity pleading I thought was essential to an understanding of the codes, and with the added idea of enlivening the study of common-law pleading, I began my experiments four years ago. The broadening value of a comparative study was a later realization. From time to time I have made some changes in the material used, and have made some rearrangements, but in the main the experiment has followed this course:

(1) A study of the common-law forms of action, followed by a rapid survey of the development of the chancery as a separate court, and of the kinds of remedies there administered.

(2) Joinder of parties at common law.

(3) Joinder of causes of action at common law, developing the common-law concept of a cause of action.

(4) Joinder of parties and of remedies in equity, developing the equity concept of a cause of action.

(5) Mergers effected when legal issues were brought into a chancery forum.

(6) The jury trial at law and in equity.

(7) Other characteristics of the law action and the equity suit.

(8) The one form of civil action of the codes.

(9) Joinder of parties and of causes of action under the codes.

(10) The purpose and general characteristics of pleadings as a whole (a) at law; (b) in equity; (c) under the codes; and (d) in modern practice acts.

(11) The plaintiff's pleading (a) at law; (b) in equity; (c) under the codes; and (d) under practice acts.

(12) The defendant's pleading (a) at law; (b) in equity; (c) under the codes; and (d) under practice acts.

(13) Pleadings subsequent to the defendant's first pleading (a) at law; (b) in equity; (c) under the codes; and (d) under the practice acts.

(14) Demurrers (a) at law; (b) in equity; (c) under the codes; and (d) under the practice acts. Under this head are treated motions in arrest of judgment and motions in the nature of demurrers, including motions for bills of particulars, motions to make definite, and motions for judgments on the pleadings, before and after verdict. Matters in abatement are considered in connection with defendant's first pleading.

(15) Cross-actions. Under this head are treated recoupment, set-off, cross-bills, and counterclaims.

So far as was possible, I have used the well-known casebooks on common-law and code pleading for the material in those fields. There being no adequate casebook on equity pleading,⁴ I sent my classes to the library for material in this field, and for such other material as I thought desirable to fit in with my scheme of development. The lack of a casebook covering the entire field has been something of a handicap, but, fortunately small classes have made the use of the reports possible where standard casebooks did not contain the material wanted. I am now engaged in compiling a casebook, which I hope to complete within a year; but, as I am more concerned with the character of its content than the time of

⁴Since this paper was written, a new casebook on equity pleading has come from the press, as to the quality of which I have formed no judgment.

its completion, it may be delayed somewhat longer. The material I have used has worked very well, but there are weak spots in it, which need strengthening.

I have been devoting seven semester hours to this course, distributed between the second semester of the first year and the first semester of the second year. I have wasted time in feeling my way, and believe the course can be given adequately in six hours when the case-book has been developed. With more matured and better grounded students still further economies may be possible.⁵ But it must ever be borne in mind in this comparative treatment that, if a confusion of the systems is to be avoided, material must not be fed to the class faster than they can digest it. Whether the subject of pleading can fairly be given the amount of time indicated, having a due regard for the rest of the curriculum, depends upon the objective of the course. If it is taught as a technical and mechanistic science, devoid of principle and unrelated to the courses in substantive law, this amount of time is excessive, for the time can be better spent. But if the course can be made an instrument for inspiring research and original thought; if through it a new approach to substantive law problems can be given; if it can be shown that any machinery, to be successful, must rest upon some principle because it has a purpose to accomplish, and that, when the purpose is not accomplished, there must have been some departure from the principle; if the student, while learning the use of a given legal machine, can be made to appreciate wherein it is strong and wherein it is weak, and what changes are likely to be improvements and what are likely to be mere impediments—then I am strongly convinced that six semester hours are well spent on such a course.

It may be suggested that this is more properly a graduate course. To this I see two answers: (1) Courses in substantive law ought not to be taught as things apart from procedure, as to so teach them frequently presents substan-

itive law in a false light, and the undergraduate instruction will be lopsided; (2) not enough students take graduate instruction, and the benefits of such a course are lost to the rank and file of lawyers of to-morrow. We must enlarge the procedural horizon of the average lawyer to bring about an advance in procedural reform.

Definite results of my experiment, for obvious reasons, are difficult to tabulate. Of this much, however, I am certain: The classes are no longer dull and uninteresting. While at first dismayed by the apparent confusion, the students have soon come to appreciate that here is a field in which they must do most of their own thinking, and that there is very little opportunity to take the easy path of adopting the views of another. Their imagination has been stirred, and as a result they have done better work in all their courses. There is no confusion of the systems, except in the minds of the students who fall below the average; but I have not noticed that the percentage of those unable to grasp this material has been materially larger than that of those who failed to grasp common-law pleading as a separate subject.

While admittedly a difficult course, very few fail to become intensely interested in it. It has afforded a most excellent opportunity to demonstrate to students the danger of a loose and inexact use of terms. I am so well satisfied with the progress made, despite many crudities which still exist, that I have no desire to return to the teaching of the systems of pleading in separate courses. I am convinced that in a measure, at least, the students taking the course are seeing substance, instead of form, and that they are being pointed for the important part they will play in developing the rational and simplified procedure of to-morrow. I am likewise sure that one of the compensations for the time devoted to the course is a richer knowledge on the part of the students of the field of substantive law. Not only have their powers of discrimination been developed, but they have come to see the important interrelations between substantive law and procedure.

⁵ Cornell University College of Law has a two-year college entrance requirement. Beginning with the fall of 1925 four years of college work will be

Legal Research in Law Schools

By HERMAN OLIPHANT,

Professor of Law, Columbia University

and

PERCY B. BORDWELL,

Professor of Law, Iowa State University

[Addresses delivered at the meeting of the Association of American Law Schools in Chicago, December 29, 1923.]

MR. OLIPHANT: Mr. Chairman, a subject so broad and general as research in law makes difficult a discussion not somewhat broad and general. Therefore a part of this discussion's excess of ambition or dearth of concreteness can be attributed to the nature of the topic.

The Executive Committee is devoting a large part of a crowded session of this meeting of the Association of American Law Schools to discussing legal research. Can its decision so to use our limited time be justified? The object of this Association is to improve legal education. Discussing legal research is not a thrifty use of our time, unless it bears some relation to legal education which is real and vital, not merely fanciful and insignificant. Is legal research important in legal education, or is it a fetish, like other contemporary ones; something to be praised in the abstract, but safely to be ignored in laying plans for legal education? This is a question which should be discussed and answered. If research has no significant bearing on questions of policy in legal education, that should be avowed, and the matter dropped. If it is important in proper planning for training in law, it is time well spent to discuss it.

As successive generations of men have faced the task of getting the world's work done, they have found many things to be done requiring special skill of one kind or another. As the structure of society became more and more intricate, and the technology which it employs more and more elaborate, it was found that natural aptitude for special tasks and self-training by the trial and error method were alone not enough to supply the requisite degree of skill in the necessary number of persons, and that self-training by trial and error was wasteful. It was thus that a part of the time of the specially skilled of one generation came to be used to train those of the next by a system of apprenticeship, sometimes formally such, but usually informal. This is the scheme of

training generally prevailing to-day. The great mass of the world's workers are being trained by a system of informal apprenticeship. But here, as elsewhere, specialization has been making headway. Professional and trade schools have recently come into being by a few of each generation being chosen to devote all of their time to imparting the requisite skill to the generation following. Beginning with training for the ministry, professional schools for lawyers, doctors, engineers, architects, and dentists have developed, and schools for others, such as business executives, are arising.

This thumb-nail sketch of the history and purpose of professional education is enough to show that the sole purpose of legal education is to train men to practice law, or to teach the practice of law. It is enough to show, also, that the problems and aims of legal education, being the same as those of professional education in general, must be thus broadly considered, and that the professional school is so recent a development that our thinking on some questions of professional education may be still seriously colored by notions belonging to the earlier system of training by the guild method of apprenticeship. Those notions affect the bar, too, and partly explain the lawyer's near contempt for law schools, along with other academic things. This attitude does not prevail in Germany, for instance, where, for some centuries, men have prepared for the bar in the academic atmosphere of the universities.

The problems of legal education are thrown into a helpful perspective by grouping them under the two great aims of all professional training. One aim is to impart to the coming generation of practitioners the existing fund of professional knowledge and skill in an effective and frugal way. The other aim is to renew the fund of knowledge to be imparted, by adding to it the new that makes for greater professional skill, and by sloughing off what has lost its utility. But this division is more than helpful. It is necessary thus

sharply to divide the question to make certain that we see the second aim and recognize it as an important part of professional education in law, at least, because the constant changes taking place in the social relations regulated by law require constant changes in the art of the profession.

As to the aim first mentioned, it is the law teacher's place in the social order to stand between successive generations of men and pass to the coming generation that body of professional knowledge and skill which made the passing generation of lawyers most useful in doing the work of the whole social group. How most efficiently merely to pass on the existing body of professional skill, without attempting to add to it, presents whole ranges of difficult problems in professional education, a few of which may be mentioned in passing.

1. There is the problem of training law teachers. So far we have done little more than extemporize its solution. The best graduates of law schools do not now want to teach in most cases. Teachers are picked from the few who happen to express an interest. There is a growing shortage of likely candidates, as we all know, and recognized by organizing the Committee on Recruiting the Teaching Branch of the Profession. No Committee handling only the mechanics of the situation can cope with it. Here is a problem for study by this Association and by the faculties of law schools, particularly of those from which the higher percentages of new teachers are coming. This may offer a possible use for the summer session in some law schools.

2. Another problem involving the first aim of professional education is that of teaching tools. The casebook in its present form is unequaled as a teaching tool, but in large classes it does not always guarantee adequate day to day preparation by students. Some of the class time is now taken for work on the cases which students might well do in advance. For some of the advanced courses, the casebook as a pedagogical device might be otherwise improved.

3. Finally, there is the question as to the most teachable organization of the material in the law school curriculum. This presents a great number of most difficult and discouraging problems. For example, many courses now overlap. Numerous basic matters are discussed slightly in many places and thoroughly nowhere. Hidden fundamentals are neglected, this resulting in the necessity for adding new courses, when there are already too many. Here are many questions needing study. All this is fertile ground for this Association to till. Here are enough problems needing study for all of our law faculties.

But these questions as to the curriculum, like those as to training teachers and shaping teaching tools, are problems, not for legal re-

search primarily, but for research in education. It is true that only law school administrators and law teachers can solve them, but their solution means research in education, not law.

Coming, then, to the other great aim of professional education, i. e., the improvement of the fund of professional skill, which it is the business of the law teacher to hand on from generation to generation, the most striking fact is that in the art of the practice of law, as in other professions, change, though slow, is constant. Modes of thought shift. Population changes in number and kind. Customs and manners drift. Domestic life is altered. Business relations take new forms, and political questions present new shapes.

The practice of law, as one form of social control, is conditioned by this general flux. There is always present, therefore, the problem of renewing the fund of professional skill to be handed on by adding the new and discarding the useless. As changes eat into the fringe of professional knowledge, its center gradually shifts, and the fund of learning we are to teach must also shift, if maximum professional ability is the constant object of professional education. It is from this standpoint, if any, that a vital relation between research in law and legal education appears. Knowing what of the old to discard, and finding the new to add, requires constant and thorough research on a comprehensive scale, if the lag between changes in training and those in practice is not to become so great as to be seriously wasteful.

Before taking up the problems for research which this approach to the subject suggests, it is well to consider who should do this research. Does the responsibility for renewing our fund of knowledge rest on the law schools? It is submitted that it does, and on each law school to the extent to which it has, or can get, the necessary resources. To what other agencies can we look? Only the exceptional practitioner can make substantial additions to our knowledge. Studies by courts in the form of opinions are rarely anything except sources of materials for others. Our only Law Institute is committed almost wholly to formulating the familiar. Legislative drafting services are few, and not organized to do general work.

The contrast between the situation in legal and medical education in this regard is enlightening. Lying between the medical school proper and departments of pure science are departments or schools for borderland work in such fields as anatomy, physiology, chemistry, and bacteriology, which are pouring a constant stream of new content into the medical school curriculum. Insulin in the laboratory to-day is in the medical curriculum to-morrow. There are no such agencies for aiding the law school. True, there are the other departments of the social sciences;

but important changes in their work and in the work of the law school must come about before they can, if ever, give us help comparable to that which the medical school now has.

The major load of renewing our fund of professional skill must therefore be shouldered by the law schools. Just as our university science departments have, in addition to teaching students, borne the major load of scientific research, so the work of the university law schools must be so organized that they may carry a larger part of this work so necessary for proper professional education.

In many of the other departments of our universities the work is so arranged that a considerable part of the time of instructors can be given to research. They are not teachers merely. This accounts for a part of their greater productivity. In the law schools, on the other hand, the traditional policy has been, and is, to have the teaching of some hundreds of students in two score of courses done by about a half dozen men. The teaching load is so heavy that seldom can a teacher, unless he have exceptional mental ability or physical strength do more than occasional pieces of semi-thorough research without paying in loss of health. One of the outstanding and challenging facts in the history of legal education since it was undertaken by our universities is the adherence to this policy of giving law teachers a teaching load which exhausts substantially all of their time and strength. This policy is a tradition of that earlier period of apprenticeship training in law. It puts almost the whole emphasis on merely teaching what the passing generation knows. Back of it is an assumption which ignores the task of adding to our fund of knowledge as one of the major functions of professional education.

The whole question of getting research done boils itself down to getting some person who can make a study free to make it. For the law teacher that means time, and for his school it means money. But law teachers as a class are the ones best qualified to do important research in law. In our university law schools, at least, means should be found for giving to those teachers, having the aptitude and inclination, the necessary time in which to do it, and do it well.

A few of the undergraduate students in law can do a little, as some are now doing in their work on law school reviews. May we not hope for a great deal from the fortunately growing class of graduate students in law? Unlike the law teacher, their time and efforts can be had, by trading them the use of law libraries and the time of law teachers directing their work. Such students are growing in numbers and improving in quality. This is probably the most hopeful development in legal education to-day. More

and more of them are men capable of making really valuable contributions to our fund of knowledge. One of the most important questions with which this Association or any law faculty can busy itself is how further to increase the number and quality of such students, and how to make their work of maximum value. The latter depends largely on the kind of questions which they undertake to study. That is the next and last subject for consideration.

Research in three fields of study will add to the fund of professional knowledge, but they vary widely in fertility for meeting present needs. There is first the study of legal analysis, then that of legal history and comparative law, and finally the study of the present social relations (domestic, commercial, and political), affected by particular bodies of law.

Work in analytical jurisprudence, giving us sharper differentiation and more illuminating arrangement of legal concepts, will facilitate teaching, but it will do more than that. Existing ambiguity in the use of such terms as title, possession, jurisdiction, negotiability, relation, consideration, voidable contract, intent, to say nothing of the more basic terms, such as right and liability, involves more than a mere difficulty of pedagogy. It means an inadequate and confused body of knowledge to be taught. Most scholastic effort in America during the last half century has gone into work of this kind, but scarcely more than a beginning has been made. Comprehensive reanalyses of most subjects such as Thayer and Wigmore have given Evidence are needed.

The foundations for an accurate and complete analysis have been laid by Hohfeld, but only the foundations. In differentiating and naming some fundamental legal concepts, he merely discovered for us the units, which others must cast into groups and combinations to build up a science of analytical jurisprudence. His concepts are to that science what the digits are to a system of numbers, useful in evaluating and recording our experiences. Hohfeld has laid the foundations. His work needs adding to by the making of a great number of studies, casting his legal relations into functional groups, and studying his concepts in action. Until this is done, the charge that his analysis is true, but useless, will continue to be at least partly true. For instance, the whole theory of indirect sanctions as a device for law administration is still to be worked out, a simple example of which is found in the relations of ward and guardian. Granted a social purpose that wards shall obey guardians, there may be no direct sanction in the form of an action to compel obedience, yet the ward's disability to use his obedience in purchasing an enforceable promise of his guardian, his disability to bind himself by contract to a third person to disobey, and

the guardian's privilege of restraining or punishing him are all indirect social devices existing to procure obedience.

Studies of such groupings of legal devices to effectuate social ends will lay the foundations for a science of law administration which our courses on procedure and administrative law but partly cover. Such studies of Hohfeld's jural relations in dynamic groups will illuminate the substance of law as well as its administration. For a single example, the different ideas or absence of ideas back of the so-called "doctrine of relation" awaits analysis.

The field of legal analysis overlaps that of psychology. When we deal with numerous psychological categories, such as "intent," we are studying matters on which there are bodies of expert knowledge outside of the law books. Psychologists have found that approaching such problems from the standpoint of observed behavior, rather than introspection, has thrown a flood of light into dark corners. So far legal study has taken no note of this development, as it must ultimately.

Legal History and Comparative Law are mentioned together, because they are alike in presenting opportunities to study, and so to profit by, the experiences of peoples in other times and places confronted with problems similar to our own. There is a wealth of material for research here. But inferences from such studies for present use are to be drawn cautiously, because of possible differences in social conditions of other times and places. The utility of such studies could be increased, therefore, if, in making them, more stress were put on the facts of life current in the place or period of the study. That splendid history of special assumptions which we owe to Dean Ames is the history of an idea in the thought processes of lawyers and judges. It would be illuminating and helpful in solving current problems for some one to complement that history with a study of the commercial and political changes which shaped the development of the legal doctrine.

The problems of to-day give an opportunity more adequately to study the contemporary facts of life which shape rules of law, and they more readily permit the use of greater objectivity in methods used in such study. The use of a more objective methodology, whose beginnings are found in statistical methods and multiple monograph studies, is a move forward, which legal students, along with the other social scientists, might well be attempting.

Relatively the most useful subjects for research at this time concern the structure and function of the business, domestic, and political institutions of to-day. There is now a substantial lag between the practice of law and study for law practice. Both promotive and regulative legal devices are often

studied in the law schools, either largely in the abstract or in connection with states of fact which are no longer their most usual and important applications. The results are not fortunate. The student, after leaving law school, has to serve a correspondingly longer apprenticeship to become efficient. This is wasteful. The law schools are not the abundant sources of new knowledge useful to the practitioner to the extent to which our medical schools and allied departments are, and the relations of the bar and the law school are not so close as they might well be. When law schools serve lawyers somewhat as agricultural colleges serve farmers, and when lawyers lose their distrust of things academic as they get farther and farther from the trade apprenticeship method of training for law, there will come about that closer alliance of bar and law school for which so many have longed. Exhortation will not bring it. The causes of its absence must be found and removed.

The most important additions to that fund of professional skill which we have to pass on will be made by research in the field of fact. Study the promissory note merely as the deposit certificate of mediæval goldsmiths, or as the instrument of short time banking or agricultural credit, and little is known of its use as an instrument of investment credit in the form of bonds. Let research on legal questions relating to such instruments be bottomed on a comprehensive and detailed knowledge of the different kinds of credit arrangements, and the result will have greater utility. If bills of exchange are used in this country almost wholly in foreign exchange, then to discuss in the abstract and at large the questions which they present, without a real understanding of the problems of financing foreign trade, is to fail to do the more useful thing. Price maintenance is not an abstract question as to powers of alienation. It must be fitted into a background involving our whole marketing structure. Can the law relating to leases be taught as something of universal application, when leases are in fact being used for purposes as diverse as those pointed out by Professor Isaacs in the *Harvard Law Review* for December:

"A lease with a privilege of purchase is made to do the work of a conditional sale. Another lease (of shoe machinery) is made the means of controlling the use of an article, where upon a sale such control could not be effectually retained. A third lease (of gasoline filling machinery) is made the means of preventing dealers from retailing the product of competitors. A fourth lease, let us say of a store in a chain of stores, is nothing more or less than the instrument for organizing the marketing end of an industry. A fifth lease is merely the means of adding a jewelry department to a department store."

There is a large and growing body of knowledge of the realities back of questions

as to corporate organizations which is the product of the work of some economists, who have shifted their emphasis from theory to fact and function. To consider questions as to the liability of the corporation for the conduct of its promoter, by reckoning with that body of knowledge, is a good example of the type of research having greatest utility at this juncture in the development of legal education. It is such studies that are most urgently needed to reduce the lag between taught law and law in action. They will add to the fund of professional knowledge, which it is our business to pass on, those things which most need to be added, and it will enable us to see the parts which have become so nearly useless that they can be discarded, to make room for those which should be included.

To assert that such studies should be made in the other social science departments of our universities rather than in the law schools is to lose sight of the fact that lying between the scholarship in law and that in the other social sciences is a broad zone still untouched. Their interrelations have not been traced out. Students of the other social sciences have done little work in this area, because of the legal factors complicating its problems. Those they cannot handle because the learning in law, as in medicine, is cast into a technique permitting only students of law to do this work intelligently. To others it is a closed book. But the learning in the adjacent social sciences has no technique so obscure as to prevent legal scholars working therein effectively. Only they can do this work and it needs doing.

PRESIDENT JONES: The discussion will be continued by Mr. Bordwell, of the State University of Iowa College of Law.

MR. BORDWELL: Research is not a word to conjure with in the law school world. It lays stress on the means rather than the end, on the patient searching rather than the thing sought. Or, again, it is identified with historical research, and that kind of research is not now in vogue. Or it is set over against teaching, and it is said that the primary object of the law school is to turn out practitioners, as though teaching and research were in some way antagonistic.

It is a common figure of speech, however, to designate the thing sought for by the name of the process through which it is sought, and so in this paper research will be used to indicate productive scholarship rather than the methods by which that productive scholarship is attained. Nor will it be confined to productive scholarship of any particular type. There is a vast field for historical scholarship at this hour in the United States, though that field would seem to be in the decisions and statutes of our own country rather than in the remote records of the time of the Plantagenets. We have a great

heritage in this country. We should make the most of it.

But who would not also profit by the developments that are going on to-day in England, say, in the law of real property. And if English lawyers can profit as much as Lord Birkenhead said at Minneapolis that he had from a study of the Roman law, should not our productive scholarship be made to include that also? Productive scholarship in the law schools, it would seem, should be as wide as jurisprudence itself and it is in this sense that it is used in this paper. Nor would productive scholarship seem to be antagonistic to teaching. Teaching without productive scholarship is *passing* on the work of some one else, and, as some wise person has said, secondhand knowledge may look like real knowledge, but the resemblance is only superficial.

Using research, then, in the broadest sense of productive scholarship, is there any special reason why it should be encouraged in our American law schools? Have we any special situation that does not exist, perhaps, in England, in France, in Italy, or Germany, that makes the call for productive scholarship to the university law schools of the United States even more urgent than to university law schools in general? Without hesitation the answer would seem to be Yes.

Much has been said about the deplorable state of our law. It is believed that this could be multiplied many times without exaggeration. Perhaps in other fields than real property the situation is not so bad, but that much the same situation exists in other fields is evidenced by the experience of the workers in such fields. It was probably the utter despair that Professor Kales felt over the decisions on future interests in the state of Illinois that caused him to think that the only hope of salvation was in an intense cultivation of the local law. He hoped thereby to get some of the coherence and predictability of the English decisions into those of his own state.

We are not likely, however, to attain forty-eight and more first-rate systems of the law in this country. It would be an awful waste of time and money, if it were possible. And it is not possible. Conditions in England do not reproduce themselves here. However, isolated a jurisdiction keeps itself, it cannot help being influenced by the law in its sister states and by the modern texts that are the product of that law. Praiseworthy as has been much of the effort of those who are responsible for such texts, they reflect the good and the bad alike, and their net effect is to increase the tendency towards the mechanical jurisprudence, which our multitude of jurisdictions makes it so difficult to avoid. Nor have the courts nor the Legislature in any one jurisdiction the prestige of the like English institutions, nor is there

any such small all-powerful group of the legal profession as that centered in London to mold the law to meet new conditions and make it a living, vital thing.

But why talk of these isolated jurisdictions? They do not exist. For better or for worse, we are one nation and not forty-eight, and that we have a common law, which is something different from the common law of Massachusetts or South Carolina or California, is assumed and acted upon by text-writer, judge, and law teacher alike. And there is only one word to characterize that common law, and that is chaotic. And the only safe way out that chaos is the law school.

Such formal unity as we have in the legal profession in the United States lies in the American Bar Association. For far the greater part of our law we have neither a common Legislature nor common courts. Such salvation as we have had, therefore, has come largely through the efforts of that Association, and at no time have its efforts been more helpful than at the present. Much can be accomplished through its co-operation and the force of its prestige, but neither the bar nor the bench of the United States has the time or inclination to perform the arduous task of finding out what our law is, of eliminating the obsolete, or harmonizing what remains, and finally of putting it abreast of our times.

Such, indeed, is understood to be the object of the American Law Institute, but the success of its efforts will depend upon the plenitude of real scholars in the law school world. It is not sufficient that there be an authority on criminal law in this school and an authority on evidence in that, but that there be numerous authorities on each subject, and that the views of such authorities be given the benefit of the discussion and criticism of those who have qualified themselves for the task. The dearth of high-grade legal literature in the United States at the present time makes it doubtful whether the law schools at present are equal to the task. It is a task, however, worthy of a great profession, and it behooves us to fit ourselves for the task if we are not already prepared.

How may we best do this? In the first place, we must get the right mental attitude. To a country boy, used to regard members of Olympic teams as demigods, it is hard for him to think of himself as Olympic caliber. It is not demigods that we need, however, but men such as we have about us every day, each filled with the determination that no man take his crown.

With that determination once formed, the way to begin is to start, and what may be accomplished under the most trying circumstances of schedules and relatively poor equipment has been exemplified many times in the past. The handicap of poor equipment, however, is not likely to be exagger-

ated. What could not be accomplished, if we had six Harvard law libraries, instead of one, provided, at least, that we had six law faculties determined to make the most of them? Would that the Harvard Law Library would get out a printed card catalogue for distribution similar to that of the Harvard College Library or the Library of Congress. At least that would afford a bibliography open to all.

Probably most young law professors have had this inclination to scholarly production, but the handicaps have been too heavy for them. The idea of the trade school is on us yet. Few presidents of universities have been law school men, and few deans have had the vision or the force to get over to their presidents the needs of a university law school.

Foremost among these needs is that of an adequate law library. The more complete the library, of course, the better; but what thorough scholarship is possible with a very small, but carefully selected, library was shown by the accomplishment of Chancellor Hammond. His library was almost negligible in size, but it was a working library, not a mere collection of law books. Endless money can be spent on statutes, but complete sets of statutes and session laws are of little working value, compared with the books that put the case law at our fingers' ends, or with those storehouses of ideas, the texts and periodicals.

But a library is of little value, unless there is opportunity to use it. With a heavy schedule of teaching hours, the opportunity for scholarly work is necessarily limited, although even here much can be done by arranging classes on successive hours, and perhaps grouping them in one part of the week, so that the uninterrupted time essential to scholarship shall be available. Fortunately, there is being established in the better law schools a standard schedule of six hours a week for full-time work. If such a standard and a really adequate library were made a test of class A law schools, we should have a classification that would affect the head, and not merely the tail, of the procession.

A recent survey of university professors in the United States and Europe has shown that it is in vacation time that the greater part of scholarly production is accomplished, and herein lies the tragedy of the summer school. For the four reasons given by the President in his address, the hurry to practice, the ambition of the school-teacher to be a lawyer, the needs of the flunker, and the poverty of the professors, law summer schools have flourished, and scholarship has languished. It is a notable fact that the one law school that has stood pre-eminently for scholarship has no summer school.

A more substantial reason for the summer school has been given by the President, the

lengthening of the law course, and the bridging of the gap between the law school and the practice, and he has pointed out that by means of the short summer school, combined with the tendency of universities to lengthen the summer vacation, this may be done without an undue interference with the time that ought to be devoted to scholarly production. But it should be a condition of even such a summer school that what is getting to be the standard six-hour schedule of teaching should be established for the regular session, if scholarship is not to suffer.

Before closing, just a word as to the alleged antagonism between scholarship and teaching. To the writer it seems a figment of the imagination, or an alibi for the failure to produce. It is true there are good scholars who are poor teachers, and good teachers who are poor scholars; but, however it may be. In the case of the individual professor, no law school would seem to have vitality where the two are not combined. In the words of Daniel Webster, teaching and research, now and forever, one and inseparable.

Meeting of the Association of American Law Schools—1923

OFFICERS OF THE ASSOCIATION, 1924

President..... William Draper Lewis, University of Pennsylvania, Philadelphia.
 Secretary-Treasurer... Ralph W. Aigler, University of Michigan, Ann Arbor.
 Executive Committee... The President, ex officio.
 The Secretary-Treasurer, ex officio.
 Henry Craig Jones, State University of Iowa.
 Austin W. Scott, Harvard University.
 O. K. McMurray, University of California.

ROUND TABLE COUNCILS FOR 1924

Business Associations:

H. W. Ballantine, University of Minnesota, Chairman.
 George J. Thompson, University of Pittsburgh, Secretary.
 Floyd R. Mechem, University of Chicago.
 E. H. Warren, Harvard University.

Wrongs:

F. H. Bohlen, University of Pennsylvania, Chairman.
 C. M. Hepburn, University of Indiana, Secretary.
 R. W. Gifford, Columbia University.
 A. L. Green, University of Texas.

Equity:

Stephen I. Langmaid, University of Missouri, Chairman.
 J. N. Pomeroy, University of Illinois.
 Howard L. Smith, University of Wisconsin.
 F. C. Woodward, University of Chicago.

Commercial Law:

Karl Llewellyn, Yale University, Chairman. Subject: Bills and Notes.
 A. T. Wright, University of California. Subject: Admiralty.
 Evans Holbrook, University of Michigan. Subject: Bankruptcy.
 Calvert Magruder, Harvard University. Subject: Insurance.
 Robert Wettach, University of North Carolina. Subject: Sales.

Property and Status:

- J. W. Madden, University of West Virginia, Chairman for '24.
 Harry A. Bigelow, University of Chicago, Chairman for '25.
 O. S. Rundell, University of Wisconsin, Chairman for '26.

Jurisprudence and Legal History:

- Ernst Freund, University of Chicago, Chairman.
 W. H. Page, University of Wisconsin.
 Robert W. Millar, Northwestern University.
 H. E. Yntema, Columbia University.
 Wm. E. Mikell, University of Pennsylvania.

Public Law:

- Henry M. Bates, University of Michigan, Chairman. Subject: Constitutional Law.
 M. T. Van Hecke, University of North Carolina, Secretary.
 E. D. Dickinson, University of Michigan. Subject: International Law.
 Joseph H. Beale, Harvard University. Subject: Conflict of Laws.
 C. E. Clark, Yale University. Subject: Public Utilities.
 Ernst Freund, University of Chicago. Subject: Administrative Law and Municipal Corporations.

Remedies:

- J. P. McBaine, University of Missouri, Chairman.
 R. J. Miller, University of Minnesota.
 Y. B. Smith, Columbia University.
 W. T. Dunmore, Western Reserve University.
 A. J. Harno, University of Illinois.

AT the Twenty-First Annual Meeting of the Association of American Law Schools, held at the La Salle Hotel, Chicago, on December 27, 28 and 29, 1923, the roll call disclosed the following schools represented by the delegates named below:

Boston University School of Law: Homer Albers.

Columbia University School of Law: Noel T. Dowling, Herman Oliphant, Edwin W. Patterson, Young B. Smith, H. E. Yntema.

Cornell University College of Law: O. L. McCaskill, H. E. Whiteside, Lyman P. Wilson.

Crelghton University College of Law: Hugh F. Gillespie.

Drake University College of Law: L. S. Forrest, Arthur Herman, C. J. Hilkey, Arthur A. Morrow.

Emory University, Lamar School of Law: Paul E. Bryan.

George Washington University Law School: Earl C. Arnold, Henry W. Edgerton, Whitley P. McCoy, C. M. Updegraff, Wm. G. Van Vleck.

Harvard University Law School: Joseph H. Beale, Manley O. Hudson, E. R. James, Calvert Magruder, Roscoe Pound, Austin W. Scott.

Indiana University School of Law: William E. Britton, Charles M. Hepburn, Paul V. McNutt, M. I. Schnebly, Hugh E. Willis.
 McGill University Faculty of Law: Herbert A. Smith.

Marquette University College of Law: John McD. Fox, Carl B. Rix, Max Schoetz, Jr., Clifton Williams, Carl Zollmann.

Mercer University Law School: Rufus C. Harris, John H. Moore.

Northwestern University School of Law: Andrew A. Bruce, Herbert Harley, Robert W. Millar, John H. Wigmore.

Ohio State University College of Law: George W. Rightmire.

Stanford University Law School: M. R. Kirkwood.

State University of Iowa College of Law: Percy Bordwell, M. S. Breckenridge, H. C. Horack, Henry Craig Jones, D. O. McGovney, Rollin M. Perkins.

Syracuse University College of Law: George W. Gray, Frank R. Walker.

Tulane University of Louisiana College of Law: E. J. Northrup.

University of California School of Jurisprudence: Orrin K. McMurray, A. T. Wright.

University of Chicago Law School: H. A. Bigelow, Ernst Freund, James P. Hall, E. W. Hinton, Floyd R. Mechem, E. W. Puttkammer, Sydney K. Schiff, Frederic C. Woodward.

University of Cincinnati Law School:

Howard L. Berris, J. L. Kohl, Charles E. Weber.

University of Colorado School of Law: Wm. R. Arthur.

University of Florida College of Law: R. Arasco.

University of Idaho College of Law: Robert McNair Davis, Philip Mechem.

University of Illinois College of Law: George W. Goble, Frederick Green, O. A. Harker, Albert J. Harno, Francis S. Philbrick.

University of Kansas School of Law: H. W. Arant, John E. Hallen, M. T. Van Hecke, Thomas A. Larremore, Raymond F. Rice.

University of Kentucky College of Law: Lyman Chalkley.

University of Michigan Law School: Ralph W. Aigler, Edwin D. Dickinson, Edgar N. Durfee, Edwin C. Goddard, H. F. Goodrich, Evans Holbrook, H. L. Wilgus.

University of Minnesota Law School: H. W. Ballantine, W. H. Cherry, Everett Fraser, R. Justin Miller, James Paige, Wesley A. Sturges.

University of Missouri School of Law: Merton L. Ferson, Stephen I. Langmaid, J. P. McBaine, Kenneth C. Sears, James W. Simonton.

University of Montana School of Law: C. W. Leaphart.

University of Nebraska College of Law: Warren A. Seavey.

University of North Carolina School of Law: Robert H. Wettach.

University of North Dakota School of Law: Thomas E. Atkinson, Orville P. Cockerill, Lauriz Vold.

University of Oklahoma School of Law: John B. Cheadle, Alison Reppy.

University of Oregon Law School: William G. Hale.

University of Pennsylvania Law School: Francis H. Bohlen, Cadmus Z. Gordon, Jr., Edwin R. Keedy, Wm. Draper Lewis, W. Foster Reeve, III.

University of Pittsburgh School of Law: John G. Buchanan, J. A. Crane, George Jarvis Thompson.

University of South Dakota College of Law: L. W. Feezer, Edward W. Hope, E. G. Smith, Harry W. Vanneman.

University of Southern California College of Law: Clair S. Tappaah.

University of Tennessee College of Law: Malcolm McDermott.

University of Texas School of Law: Leon Green, Charles T. McCormick, W. A. Rhea.

University of Wisconsin Law School: Frank T. Boesel, Ray A. Brown, W. H. Page, H. S. Richards, W. G. Rice, Jr., Oliver S. Rundell, John B. Sanborn, J. D. Wickhem.

University of Wyoming Law School: J. G. Driscoll, Jr., Edwin W. Hadley, Charles G. Haglund.

Vanderbilt University Law School: Charles J. Turck.

Washburn College School of Law: Harry K. Allen, James R. McBud.

Washington and Lee University School of Law: W. H. Moreland.

Washington University School of Law, Ernest B. Conant.

West Virginia University College of Law: Edmund C. Dickinson, Thomas P. Hardman, J. W. Madden, Clifford R. Snider.

Western Reserve University, Franklin T. Backus Law School: A. C. Brightman, Walter T. Dunmore, C. M. Finfrock, A. H. Throckmorton.

Yale University School of Law: Edwin T. Borchard, Charles E. Clark, Walter Wheeler Cook, Arthur L. Corbin, K. N. Llewellyn, Edmund M. Morgan, Thomas W. Swan, Edward S. Thurston, W. R. Vance.

Guests of the Association

Baylor University Law School: Allen G. Flowers.

De Paul University Law School: William F. Clarke, Harry D. Taft.

Imperial University of Tokio: Kenzo Takayanagi.

St. Louis University Law School: A. G. Eberle.

St. Paul College of Law: Oscar Hallam.

University of Notre Dame Law School: Raymond J. Heilman, Thomas F. Konop, Daniel Waters.

University of South Carolina Law School: E. M. Rucker.

Valparaiso University Law School: E. L. MacDougall.

Youngstown Law School: Theodore A. Johnson.

Member Schools Not Represented

Catholic University of America Law School.

Dickinson School of Law.

Hastings College of Law.

University of Mississippi School of Law.

University of the Philippines College of Law.

University of Virginia Department of Law.

University of Washington School of Law.

REPORTS OF COMMITTEES

THE EXECUTIVE COMMITTEE

The Executive Committee submits the following report for the year 1923:

1. Two regular meetings, each one in Chicago, have been held. In addition there was an informal meeting during the summer in New York attended by the President, Secretary, and Prof. Patterson.

2. The Committee formally declared its finding that the School of Law of the University of Mississippi, which was admitted conditionally at the annual meeting of 1922, had complied with the library requirement. The School of Law of the University of Mississippi became a member of this Association.

3. Inspections of a number of member schools were ordered. Some of these inspections have already been made and reports thereof filed with the Executive Committee.

4. It was voted as the sense of the Committee that article sixth, section 5, would not apply to summer schools, unless the summer session is an integral part of the year's program, as, for instance, in the case of universities which have adopted the quarter system. As regards other summer sessions, students who first enter at such sessions shall for purposes of the rule, if they attend a later regular session, be counted then as newly entering students.

5. Consideration was given to an inquiry regarding the necessity of final examinations in the case of certain courses like practice court, drafting of legal instruments, legal bibliography, etc. It was the sense of the Committee that final examinations under the rule should not be considered as required in practice court and in courses involving the drafting of legal instruments, but that as to such courses as legal bibliography a final examination might very well be expected. The general principle was declared to be that final examinations should be required in all courses reasonably susceptible thereto.

6. The Committee interpreted article sixth, section 3; to mean that any school now a member or hereafter applying for membership in the Association conducting both full and part time curricula must comply as regards each with the requirements therefor as set forth in said section 3. (The substance of this interpretive resolution is now proposed, as stated below, as an amendment to the Articles of Association.)

7. Consideration has been given to the matter of jurisdiction of the Association over instruction in law given in a school of commerce or business administration, etc., in an institution having a law school which is a member of the Association. The judgment of the Committee was that the test should be whether the law instruction offered was intended as a preparation for admission to the bar. In the determination of this question the practice of giving certificates of law study preliminary to the taking of bar examinations or as a basis for admission to the bar would be of vital significance. (The problem here involved is sought to be handled by the proposals of amendments to the Articles of Association below set forth.)

8. At the fall meeting the Committee had the advantage of the personal presence of Dean Schoetz of the Law School of Marquette University, of Dean Clarke, and two other representatives of the Law School of De Paul University, and of Father Sidenburg of Loyola University of Chicago, and the whole problem of part-time schools was very fully discussed. Several proposed curricula of part-time schools have been submitted to the Committee pursuant to the provisions of

the second paragraph of section 3 of article sixth. A report on these will be made at the time of the meeting.

9. Three applications for membership have been received. The recommendation of the Committee as to these will be presented at the annual meeting.

10. The following proposals are submitted by the Committee to the Association in the way of amendments to the Articles of Association. (*Italics* indicates new provisions.)

I. Amending section 3 of article sixth so that it will read as follows:

"A full-time school shall require of its candidates for the first degree in law resident study of law during a period of at least ninety weeks and the successful completion of at least ten hundred and eighty hours of class room instruction in law.

"A school whose instruction is chiefly given after four p. m., or which regularly requires less than twelve hours a week of class work from its students shall be considered a part-time school. *Curricula of part-time schools, for work in which are issued certificates to be used for admission to the bar or for bar examinations, must, in the opinion of the Executive Committee, be equivalent to the requirements for a "full-time school.* The action of the Executive Committee under this subsection shall in each instance be reported to the Association at its next annual meeting and shall stand as the action of the Association until set aside by a vote of a majority of all the members of the Association.

"Any school now or hereafter a member of the Association, that conducts both full and part time curricula, must comply as regards each with the requirements therefor as set forth in the preceding paragraphs.

"No school shall be or remain eligible to membership if the institution of which it is a part shall through any other agency conduct instruction in law for which are issued certificates to be used for admission to the bar or for bar examinations, save in conformity with the provisions of the preceding paragraphs."

II. Amending article eleventh by substituting the word "sixty" for the word "ninety" so that it will read as follows:

"Applications for membership shall be addressed to the Secretary accompanied by evidence that the school applying fulfills the requirements of articles sixth and seventh. The Executive Committee shall examine the application, and report to the Association whether the applicant has fulfilled the requirements. Applications for membership shall be made at least sixty days before the meeting of the Association."

III. Amending article fifteenth by substituting the word "sixty" for the word "ninety" so that it will read as follows:

"These articles may be changed at any annual meeting; the vote on such change shall be by schools, and no change shall be adopt-

ed unless it is voted for by two-thirds of the schools represented, nor unless it is voted for by at least one-third of all the members of the Association: Provided, that no motion for an amendment shall be considered unless a copy of such proposed amendment be filed with the Secretary at least *staty* days before the meeting and a copy thereof sent forthwith by the Secretary to each member."

11. Before fixing the place of meeting for 1923 a questionnaire was addressed to the member schools. The replies indicated an overwhelming opinion in favor of continuing the meetings in Chicago and preferably at a downtown hotel. The committee accordingly arranged for the meeting at the La Salle Hotel, Chicago, Illinois. The Committee has not been unmindful of the problem of the far Western members and considered informally the possibility of suggesting to the Association that the scheduling of the meeting for 1924 in Denver be seriously considered.

Respectfully submitted,

Henry Craig Jones, President.
James P. Hall.
Edwin W. Patterson.
Edwin R. Keedy.
Ralph W. Aigler, Secretary.

COMMITTEE ON CURRICULUM

At its last Annual Meeting the Association instructed the Committee on Curriculum further to report upon the general subject of the content of prelegal training, and in particular to submit some sample programs for two years of college work.

The Committee is at work on this matter, and, before reporting, desires to continue its study another year.

Respectfully submitted,

Herman Oliphant, Chairman.
W. W. Cook,
E. R. Keedy,
M. R. Kirkwood.
H. S. Richards.
A. W. Scott.
F. C. Woodward.

COMMITTEE ON RECRUITING THE TEACHING BRANCH OF THE PROFESSION

Since the Committee submitted its last report, the first edition of a directory of teachers in association schools has been completed and published. The publication disclosed a number of inaccuracies, due largely to eleventh-hour changes in law school faculties and to the failure of deans and professors to send in questionnaires. These errors have been reported to Mr. Turner, of the West Publishing Company, and will be corrected in the new edition of the directory which he is having prepared.

In the opinion of the Committee it is fitting that there be some expression of commendation of the excellent form in which the West Publishing Company has printed the

directory. New editions from time to time in a similar form will be very useful.

In the last report it was pointed out that during the year 1922 fewer schools had availed themselves of information collected by this Committee than during the preceding year. During 1923 even less interest was displayed. Only two Association schools patronized the Committee as against eight in 1922, and two non-association schools as against three the preceding year. The Committee was asked by only four schools to supply information as to prospective teachers.

During the past year the chairman has corresponded with forty teachers or prospective teachers, of whom twenty-two were new applicants not on the list the preceding year. Several of these have secured places, but in no case can this be traced to the Committee's recommendation. In other words, the chairman of the Committee has corresponded with forty applicants for places and with four applicants for teachers and has placed no one.

The explanation of this is in the fact that the deans of member schools, when vacancies occur on their faculties, almost invariably fill these vacancies without making application to the Committee. No criticism can rightly be made of such a course. In most cases there are other sources of information available which seem more accurate and more expeditious. It simply explains what was suggested in the last report, namely, that since the work of compiling a directory has been completed there is little or no demand for continuing the Committee. It is therefore respectfully recommended that the Committee be discharged.

Respectfully submitted,

William C. Van Vleck, Chairman.
J. B. Cheadle.
J. R. Long.
L. P. Wilson.
A. M. Thompson.

SPECIAL COMMITTEE ON REFORM OF LEGAL PROCEDURE

Your Committee reports that it has again considered the subject of preparing a source book containing typical statutes and other material to represent current proposals of improved civil procedure, but that it has been unable to come to a complete accord. In the possibility that the Committee, if enlarged and reconstituted, so as to be more widely representative, might come to an accord on this important subject, your Committee recommends that it be continued for one more year.

Respectfully submitted,

J. H. Wigmore, Chairman.
Herbert Harley.
E. W. Hinton.

SPECIAL COMMITTEE ON JURISTIC CENTER

The Committee on the Juristic Center begs leave to report that on February 23, 1923, the Committee on the Establishment of a

Permanent Organization for Improvement of the Law, into which this Committee had been merged, convened a meeting of all branches of the legal profession in Washington, D. C., and at that meeting the American Law Institute was formed. Your Committee therefore has the pleasure of reporting that the action of the Association in constituting the Committee has met with complete success in the formation of the American Law Institute.

Respectfully submitted,

Joseph H. Beale, Chairman.
Henry M. Bates.
Ernst Freund.
Frederick Green.
William Draper Lewis.
Edmund M. Morgan.
Harlan F. Stone.

COMMITTEE ON JURISPRUDENCE AND LEGAL PHILOSOPHY

To the Association:

Your Committee reports as follows:

1. The remaining unpublished volumes of the Modern Legal Philosophy Series are two—Vol. VI, by Professor Rudolf Stammler, and Vol. VIII, by Professor Icilio Vanni.

The former has been ready in manuscript for some time past; the reasons for the delay are explained in prior reports of your Committee. It is the intention of your Committee to place this volume next on the list for publication. The translator is Professor Isaac Husik, of the University of Pennsylvania.

The latter volume was partly translated by the late John Lisle, Esq., of the Philadelphia Bar, and will take its place next on the list. It is expected that Professor Arthur Livingston, of the College of the City of New York, will complete the translation, and Professor Cohen, of the same College and a member of this Committee, will act as editor.

2. Vol. XI. "The Rational Basis of Legal Institutions," a compilation of passages from some 50 authors, was published in the spring of the current year. It might well furnish an interesting source book for a discussion class in law schools.

3. Attention is further directed to the Italian review "Revista della Filosofia del Diritto," edited by Professor Giorgio Del Vecchio, of the University of Rome. A few sample copies will be available for inspection at the Annual Meeting. The editors of that Review are deeply interested in the progress of contemporary legal thought in countries other than Italy, as well as in Italy. They would welcome contributions from American scholars, and these would be rendered into Italian in the editorial office. The scope of the Revista is far broader than "philosophy of law" in any strict sense. Europe needs to be informed of important American trends of thought and this Review is an admirable medium. The article in a recent number by Prof. Siotto Pintor, a critical discussion of

Prof. Roscoe Pound's "Spirit of the Common Law," is a remarkable critique, doing quite as full justice to the subject as anything that has appeared in English. Prof. Del Vecchio, editor-in-chief, has expressed to the Chairman of your Committee, the earnest hope that American and Italian scholars can become better acquainted with each other's work; and the recent visit of Professor Pound to Rome, in 1922, has served especially to interest Italians in American juristic progress.

4. Taking "philosophy of law" and "jurisprudence" again in broader sense, attention may be directed to the critical studies of American (and English) law emanating in the last three years from the Institute of Comparative Law at the University of Lyon; Prof. Ed. Lambert is director. Special effort is there made to acquaint Continental scholars, in these monographs of graduate students, with Anglo-American legal problems, particularly in the economic field. Naturally, adequate American printed sources are difficult to acquire in Europe; and this opportunity is taken to invite American university law journals to contribute their files to the Library of the Institute, and thus reciprocate the sympathetic interest already there existing.

Respectfully submitted,

Joseph H. Drake,
Professor of Law,
University of Michigan.
Albert Kocourek,
Professor of Jurisprudence,
Northwestern University.
Ernest G. Lorenzen,
Professor of Law,
Yale University.
Floyd R. Mechem,
Professor of Law,
University of Chicago.
Roscoe Pound,
Professor of Law,
Harvard University.
Arthur W. Spencer,
Brookline, Mass.
John H. Wigmore, Chairman,
Professor of Law,
Northwestern University.
Morris R. Cohen,
Professor of Philosophy,
College of the City of New York.

COMMITTEE ON LEGAL HISTORY

To the Association:

Your Committee on Legal History reports as follows:

1. During the past year no new volume of the Continental Legal History Series has appeared, but work has been done as follows:

(1) Vol. VII, History of Continental Civil Procedure, by Judge Engelmann and others, translated by Professor Robert W. Millar, was to have gone to press this year. But

the difficulties involved in finding the most suitable Anglo-American terminology for Continental technical terms have induced the translator to spend additional labor on the revision of the manuscript. The materials used are in six different languages, all of which the translator himself is rendering. The hope of finding more ample, but concise, essays on the Italian and the Spanish branches of the work has induced further search. These reasons for postponement have now virtually been eliminated, and the manuscript will go soon to the publisher. Meanwhile, attention is called to the translators' introduction, entitled "The Formative Principles of Civil Procedure," published in the Illinois Law Review for May, June, and November, 1923, which gives an interesting survey of the general development and explains the terminology employed.

(2) Vol. VIII, "History of Italian Law," by Senator Professor Calisse, translated in part by the late Mr. John Lisle, of the Philadelphia Bar, and now being completed by Prof. Layton B. Register, of the University of Pennsylvania, has been delayed solely by the author's inability, due to press of other affairs, to furnish notes and text to bring the work down to date. The Chairman of your Committee visited Senator Calisse in Rome last May, and secured from him a promise to furnish the lacking material speedily. That promise was fulfilled in October, and the translator will now proceed to complete the manuscript.

(3) Vol. X, "History of Continental Commercial Law," by Prof. Paul Huvelin, of the University of Lyon, is peculiar, in that the original French text has itself not been yet completed. The author, a scholar of comprehensive talents, has turned aside, during the last 10 years, to organize the French Law School at Beyrout, to manage a hospital during the World War, to write a large treatise on the Roman Law of "Furtum," to write a treatise on Early Magic in Justice, and to write on Primitive Music. He read also a paper at the Third International Congress of History, last April, on "Famous Men of Literature Who Failed as Law Students." At his summer home near Reims he was visited last August by the Chairman of your Committee, and then and there promised not to turn aside again until the History of Commercial Law was finished. This subject (he explained), unlike some others, would require considerable traveling to gather the remaining materials, for the archives of Italy and of the Netherlands are an indispensable resort in certain branches of the subject. Presumably the text of this work will not be completed for some two years more.

These three volumes (VII, VIII, X) will complete the Continental Legal History Series.

Members of faculties are requested to make more frequent use of the Series as reference books in their courses, and to

spread the knowledge of it among the bar. The publishers are entitled to our gratitude for their willingness to invest a large sum in a publication which could only be, for them, a succès d'estime. The profession should give material recognition to the service thus rendered to legal science.

2. In the field of Anglo-American Legal History, attention is called to the recent monograph, by Prof. C. C. Crawford of the University of Kansas, "Guide to the Study of the History of English Law and Procedure," published by the Carswell Company, Toronto, Canada. This unique work now makes possible with little labor of the instructor, a useful course in colleges and law schools. The future ought to see a notable increase of activity in this field.

It is not the province of this Committee to call attention to individual new books. But the appearance of the revised edition of Professor Holdsworth's second and third volumes of "History of English Law" is so notable an event that it merits special mention: Almost twenty years ago, when the present Committee was organized, and proceeded to compile the select Essays in Anglo-American Legal History, the preface to that compilation stated that one justification for it was to assemble those materials for convenient reference pending the completion of Mr. Holdsworth's History, then just begun. The fruits of his long labors, in their final form, have now begun to appear, and the remaining volumes may be expected before long. The problem of the expense of publication has proved a difficult one. Your Committee believes that Professor Holdsworth is entitled, not only to the gratitude, but to the active support of the Faculties of Law in the United States. Inasmuch as the circularization of the American Bar by the publishers is a difficult matter, we venture to ask all the delegates to the Association meeting to take convenient opportunity to spread the news of this work of Professor Holdsworth among those scholarly members of the bar who would be glad to possess and peruse these volumes.

3. In the field of Comparative Legal History, attention is again called to the "Journal d'histoire du droit," published at The Hague, of which Prof. J. Van Kuyk, at The Hague (Stadhoudersplein 93) is now the corresponding editor. It contains articles in five languages, Dutch, English, French, German, and Italian, and has taken already its natural place as the only international journal in that field. Sample copies have been sent to law school libraries. A reprint of a recent "Summary of Literature on Legal History in the United States 1920-1922," and a Table of Contents for Volume IV of the Journal (1923), are distributed at the December meeting, to illustrate the direct usefulness which the Journal may have to American professors. In the current number, Professor Holdsworth's article on "The English

Trust, Its Origins and Influence," also evidences the broad scope of the Journal's field.

4. The Selden Society of England needs wider support. Last year a member of your Committee sent letters to some fifty prominent practitioners in the West and South; but few subscriptions were obtained. University Law Libraries, however, would, of course, be supposed to possess the complete series of the Society's publications. The American representative for subscriptions is Richard W. Hale, Esq., 50 State street, Boston, Massachusetts.

5. In 1925, the University of Pavia will celebrate the millennial anniversary of its founding. This University, next to that of Bologna, was the most famous of the early ones for its development of legal studies. Lombard law, which (as Maitland has shown us) was nearest to Saxon law, had there its juristic home. Lanfranco, its precocious and most famous professor of law in the eleventh century, became afterwards Archbishop Lanfranc, primate of Canterbury, the most trusted adviser of William the Conqueror, and the supposed organizer of Domesday Book. The University of Pavia holds, therefore, a special place of interest in history for American law schools. Inasmuch as no one American university will probably be specially concerned, and the historic appeal is common to all, it is suggested that this Association might appropriately take official recognition, of the Pavia millennial in some manner, on behalf of all American Law Schools.

Respectfully submitted,

Joseph H. Drake,

Professor of Law,
University of Michigan.

Ernst Freund,

Professor of Law,
University of Chicago.

Ernest G. Lorenzen,

Professor of Law,
Yale University.

Wm. E. Mikell,

Professor of Law,
University of Pennsylvania.

John H. Wigmore, Chairman,

Professor of Law,
Northwestern University.

GENERAL SESSIONS

First Session

Below is given the principal part of the discussion at the First Session, held at the Hotel La Salle, Chicago, on the morning of December 27, 1923:

President Jones: The appointment of committees will occur at the end of this session. The next is the report of the Executive Committee.

Secretary Aigler: There have been considered by the Executive Committee four applications for membership. Of these four

we are prepared at this particular moment to report only on one. The others will come up after we have considered some of the other matters in the report of the Executive Committee. The application which we are prepared to present at this time is that of Mercer University School of Law, which application the Executive Committee recommends approval. I move the recommendation of the Committee.

Seconded.

President Jones: The motion is that the recommendation of the Executive Committee that Mercer University Law School be admitted to membership in the Association be approved.

Mr. Hudson: Could we hear something about the law school at the present time.

President Jones: I visited Mercer University Law School about a month ago. They have a library of over 5,000 volumes of new books. Their expenditures last year for books approximated \$10,000. They have three full-time men on their staff. One of them is a graduate of the University of Chicago Law School, another is a graduate of Yale University Law School, and the third is Judge Fish, former Chief Justice of the Supreme Court of Georgia. In addition, they have several practitioners, who are men of excellent ability and good training. They have temporary quarters, which are adequate. Their attendance is about sixty. Their requirement for admission is one year of college, one that was enforced last fall, and they have provided that in 1925 they will go to a two-year requirement. While I was there they fixed the annual appropriation for their library at \$3,000 per year. They will have a new building within two years. I met a member of the board of trustees who told me they had the funds, and that construction would be commenced, so the building would probably be completed at that time. Their classes meet in the morning, between 8 o'clock and 1. Is there any discussion?

President Jones: The ayes have it, and Mercer University Law School is admitted to membership.

Secretary Aigler: The next item in the report of the Executive Committee is with reference to amendments to Articles of Association, on page 12 of the program. (For report of Executive Committee see page 301 of this magazine.) I want to take these somewhat out of the order in which they appear on page 12. Number 2 is a proposal amending Article 11, substituting the word "sixty" for the word "ninety," so that it will read as follows:

"Applications for membership shall be addressed to the Secretary accompanied by evidence that the school applying fulfills the requirements of articles 6 and 7. The Executive Committee shall examine the application, and report to the Association

whether the applicant has fulfilled the requirements. Applications for membership shall be made at least *sixty* days before the meeting of the Association."

The reason, I understand, why the ninety-day provision was originally incorporated was that at that time the meeting of the Association was in connection with the American Bar Association, which ordinarily met in August. In order to get matters before the Association, so that the faculties could pass on the various matters before the meeting, they had to make it ninety days. Just as the ninety-day provision made it a matter of convenience at that time, as a matter of fact, of necessity, so the ninety-day provision is an awkward feature, with the meetings held as they are now, at the time of the holiday vacation. It has meant getting together the Executive Committee just about the time colleges are opening, the most awkward time for the men to get away and attend a meeting. Therefore the proposal is that the period of ninety days be changed to sixty. I move the adoption of that recommendation, Mr. President.

Seconded.

President Jones: Is there any discussion? The Articles of Association require that, on amendments to the Articles, the vote shall be by schools. If there is no discussion, we will call for a vote by schools. Call the roll, Mr. Secretary.

Member: Can't we waive that requirement where there is no objection?

President Jones: I think you might combine it with the other amendment and vote on the two together.

Secretary Aigler: The proposal of the Executive Committee is further that Article 15 be amended in the same way, by substituting the word "sixty" for the word "ninety," and for the same reason. I move, Mr. President, that that recommendation be also adopted.

Seconded.

President Jones: If there be no objection, we will vote on these two together.

Vote by roll call. (All schools represented voted in the affirmative.)

Secretary Aigler: Mr. President, the vote is unanimous.

May I now again take up things out of order? Remember, I said that there were four applications for membership. The second application for membership is from the University of Wyoming School of Law. That application came to the Secretary within a few days after the beginning of the ninety-day period. The Executive Committee has considered the application, and, so far as the school and the application are concerned, it recommends the admission of that school. It further recommends to the Association, in view of the fact that you have now amended the Articles of Association, so that applications may be received within sixty days, in-

stead of ninety, that the application be entertained at this meeting. I may say further that the suggestion with reference to changing the ninety to sixty was not in any sense prompted by the Wyoming application, because the application came to us within a week, entirely without our knowledge that it was coming, after we had adopted our own resolution recommending the amendment of our Articles of Association from ninety to sixty, and I therefore, Mr. President, move that the University of Wyoming Law School be admitted to membership.

Seconded.

President Jones: Are there any remarks? I visited the University of Wyoming Law School. They have three full-time men on their staff. They have two years of college work required for admission. They have an excellent working library of over 5,000 volumes, to which they are making constant and rather large additions. Their teachers are graduates of Stanford and of Yale. If there are no remarks I will put the question.

The ayes have it. The University of Wyoming Law School is admitted to membership.

Secretary Aigler: The next item on the program is with reference to the amendment of section 3 of Article 6, the first recommendation that appears on page 12 of the printed program. Section 3 of Article 6 reads now—it is in two paragraphs. The first paragraph is the same as the first paragraph on page 12. No change in paragraph 1. As to the second paragraph, which reads this way: "A part-time school shall require for the first degree in law a course of resident study that, in the opinion of the Executive Committee, is equivalent to the requirements for a full-time school. A school whose instruction is chiefly given after 4 p. m., or which regularly requires less than twelve hours a week of class work from its students, shall be considered a part-time school. The action of the Executive Committee under this subsection shall in each instance be reported to the Association at its next annual meeting, and shall stand as the action of the Association until set aside by a vote of a majority of all the members of the Association."

I call your attention to the fact that the second paragraph, as it now stands, is in three sentences. The first amendment really is simply a switch in the order of the sentences, taking the middle sentence, as it stands now, which is a definition of a part-time school, and placing it first, which seemed to be the natural place for it, rather than that the definition of a part-time school should come in the middle, as it did in the paragraph as I read it to you.

Then, in place of the first sentence of the paragraph as it now stands—perhaps it might be well to read that again. (Reads.) Now, as to that, we propose to substitute an-

other provision. The original proposal of the Executive Committee is that sentence which appears in italics in the second paragraph on page 12. Since the Executive Committee phrased that and the report of the Committee was distributed we have had some suggestions as to improvements of the language, and at the meeting of the Executive Committee yesterday that was reconsidered, and, although the substance has not in any sense been changed, we do submit a recast sentence. I have here some typewritten copies of the new proposal. I have not sufficient of these to give each one of you one, but perhaps by distributing them you may each one be able to follow.

Now, if I may read the proposal; that is, in place of the first sentence appearing in italics the following (and this is a change in the article): "A part-time school which grants law degrees, or which issues certificates to be used for admission to the bar or for bar examination, must maintain a curriculum which, in the opinion of the Executive Committee, is equivalent to that of a full-time school."

One reason for a change, as I stated, was simply a matter of style, shifting what was the middle sentence of the second paragraph to the first sentence. This proposal, which is, to a certain extent, a change in substance, after all is not a very big change. It came to our attention that some schools were disposed to give work, part-time work, not leading to a degree, but which, after all, was designed as work in the way of preparation for the practice of law, and it was the feeling of the Executive Committee that the intent of the Association last year at the annual meeting, when we adopted the language that is taken out by this proposal, and for which this is substituted, that this Association should have control, so to speak, over all law work in member institutions that is given with a view to preparation for practice. Of course, it was not our notion that we should control the type of instruction given in member institutions in law, generally, perhaps as a cultural study, or purely as a matter of business preparation. That accounts for the language that you now have before you.

In the printed program you will observe that we tied it up simply with work leading to certificates for bar examinations, or for admission to the bar, omitting any reference to law degrees. Obviously, the intention of the Executive Committee was not to loosen up, but rather to make more strict and more all-inclusive, or more nearly all-inclusive, the control of the Association over law work of the sort I have just indicated.

It was called to our attention that, in omitting the reference to law degrees and in tying it up to certificates for admission to the bar, that we had closed the back door, but had left the front door open, because it came

to our attention that there were some states in which the practice is unknown of issuing certificates for bar examinations or for admission to the bar and that in such state the sentence, as it appears in the printed program, would, of course have no force. That was not our intention at all, so we have put it in the alternative. I suspect that you will prefer to take up these paragraphs separately when it comes to the real consideration of the matter. But, to have the whole matter before us, you will observe, then, that we propose a new third paragraph to section 3 of Article 6. Referring back again to the printed program that new third paragraph reads as follows: "Any school now or hereafter a member of the Association, that conducts both full and part time curricula, must comply as regards each with the requirements therefor as set forth in the preceding paragraphs."

The Executive Committee, at its meeting in the spring, had adopted substantially that as the judgment of the Committee in interpreting the Articles of Association. Further consideration led us to submit this provision as an amendment to the Articles, so there could not be any doubt about it. There are some schools, some of them already members, and some that want to be members, that conduct both full and part time courses. Now, our Articles of Association provide certain requisites for the full-time course, certain requisites for the part-time course. Our proposal, then, is in short that our Articles of Association require that such schools as to each course comply with the requirements therefor, as set forth in the Articles of Association.

The Committee also proposes a new provision, which appears as the fourth paragraph of section 3 of Article 6, as follows: "No school shall be or remain eligible to membership if the institution of which it is a part shall through any other agency conduct instruction in law." And then let me call your attention to the typewritten sheet. Immediately following the word "law" insert these words, "leading to a law degree or;" "leading to a law degree, or for which are issued certificates to be used for admission to the bar or for bar examinations, save in conformity with the provisions of the preceding paragraphs."

Perhaps a word of explanation as to what was in the mind or minds of the Committee in making that proposal. It came to our attention that some schools were proposing, if not actually doing, this: With reference to a part-time school, the law school itself would drop the work, give only its full-time course; that the University, however, through the agency of its extension course, or School of Commerce, or something of that sort, would give these part-time courses in law, not as courses designed to fit men simply for business, but as courses designed to

prepare men to pass the bar examinations, and ultimately to practice law.

Of course, we realize that our law schools and colleges of law probably in a legal sense do not have a separate existence from the universities or institutions of which they are a part. We have throughout treated our membership nominally, at least, as a school or departmental or college membership. You will observe our list of members, as, for example, University of Chicago Law School, not the University of Chicago, but the University of Chicago Law School. It was the notion of the Executive Committee, then, that if any member institution should, through any other agency than its Law School proper, or College of Law, or Department of Law, conduct courses in law leading to law degrees, or which would be the basis of certificates for admission to the bar or for bar examinations, that those courses must comply with the requirements of this Association for law curricula.

I have tried to explain what was in the mind of the Committee in submitting these amendments. I move the adoption of the amendments, as now appear in the printed program as the second paragraph of section 3 of Article 6, the first two sentences of which are exactly the same as the second and third sentences originally, the second sentence being the one appearing on the type-written sheet.

President Jones: Will you read it as it will now appear.

Secretary Aigler: The second paragraph of section 3 of Article 6 would then read this way; perhaps I had better read the first paragraph, too, so we will have it all before us. There is no question about the first paragraph. That is simply printed there for your convenience. "A full-time school shall require of its candidates for the first degree in law resident study of law during a period of at least ninety weeks and the successful completion of at least ten hundred and eighty hours of class-room instruction in law."

Second paragraph: "A school whose instruction is chiefly given after 4 p. m., or which regularly requires less than twelve hours a week of class work from its students, shall be considered a part-time school. A part-time school, which grants law degrees, or which issues certificates to be used for admission to the bar or for bar examination, must maintain a curriculum which, in the opinion of the Executive Committee, is equivalent to that of a full-time school. The action of the Executive Committee under this subsection shall in each instance be reported to the Association at its next annual meeting, and shall stand as the action of the Association until set aside by a vote of a majority of all members of the Association."

I might serve notice at this time that the Executive Committee has a report to make

with reference to certain submitted curricula of part-time schools.

President Jones: The motion is on the adoption of the amended paragraph 2 of section 3 of Article 6.

Seconded.

Mr. Hall, Chicago: Might I suggest that the paragraphs be voted on as a whole? In the first place, they all hang together, and, secondly, this will have to be voted on four times, the roll will have to be called four times. Would it not be better to vote on them all at once, instead of paragraph by paragraph?

Secretary Aigler: I will be glad to make my motion that way.

President Jones: With the consent of the mover, then, the motion will be considered as applying to all four paragraphs.

Mr. Sanborn: I thought it might be of interest to the Association to state the conclusions the Committee of the Council of Legal Education of the American Bar Association came to on practically the same problem, as Mr. Aigler has stated in these amendments. In the first place, the Committee on Legal Education, Council on Legal Education, has concluded that the question of degrees under the standard of the American Bar Association is not important. For instance, some schools submitted to us the proposition that they would require two years of college work for all candidates for a degree, and they were informed that that was not in compliance with the American Bar Association standard; that is, that all their requirements must be met by the students, whether they are put down in the catalogue as candidates for the degree or not, provided the school issues certificates for bar examinations on the work done by those students, or in the cases where those certificates are not involved, but the school holds itself out as affording preparation for the bar examinations. And on that, by an entirely independent course of action, we came to the same conclusion, that the Executive Committee of your Association did. In the same way, as to the fourth paragraph, the third paragraph of the section as appears on the printed program. Independently of the Association, although before we announced it, we were aware of the action of the Executive Committee, which Mr. Aigler referred to as interpreting the conclusions of the Association of American Law Schools. We concluded that, where a school was giving both part-time and full-time work, it must comply as to both of those with all the requirements of the American Bar Association, and that has prevented certain schools from being in the approved list, because they are maintaining part-time courses for which they do not require the two years of college work, or for which, as far as any action taken by the Council appears as yet, the length of the

course for the part-time students has not been approved as being the equivalent of a three-year course for full-time students, to use the language of the standard of the American Bar Association. So on that we came to exactly the same conclusion, and that announcement was made to all the schools interested early last summer, before we knew of the action of the Executive Committee of your Association, and was made, of course, when we announced publicly the list of approved schools, and explained some of the rulings which we have made. In the same way we have concluded that, wherever an institution of which a law school is a part gives work which it represents in any way, either by certification or by its announcements as intended to prepare for the bar, then the students who are taking that work must comply with the standard of the American Bar Association, or the schools cannot be on the approved list. I stated, I think, exactly what Mr. Aigler has said, in a little different language. I simply wanted to call your attention to the fact that we have come to exactly these conclusions, although acting entirely independently of the Executive Committee.

Mr. McMurray: I merely ask, for information, the definition of the part-time school. I may be obtuse, but this is a very important matter. Considering it for the first time, I find some difficulty in understanding what the standard is here. This amendment as finally proposed, the typewritten sheet, seems to imply that part-time schools that do not do these things, do not grant law degrees, or do not grant certificates to be used in bar examinations, do not have to have a curriculum equivalent to that of the full-time schools. Is that the way your Committee desired to leave it, or is there somewhere else in the Articles of Association a definition of part-time schools? I am asking for information.

Secretary Aigler: The definition of a part-time school is in the new first sentence of this proposed second paragraph. It used to be the second sentence of the second paragraph: "A school whose instruction is chiefly given after 4 p. m., or which regularly requires less than twelve hours a week of class work from its students, shall be considered a part-time school."

As far as your inquiry about the definition of a part-time school, that would be a reply. Your other question, the other part of your question, as to what would be the situation with reference to a part-time school, that neither gives degrees nor certificates leading to bar examinations or to admission to the bar, that I think was not present in the minds of the members of the Committee. I think it was rather assumed that all part-time schools that were giving the work, giving work leading to preparation for the bar, or for admission to the bar,

would do one of these two things. Now, it is barely possible, of course, that there might be still a loophole. We have no information that would indicate that any school we know of would get by this provision, as it is in the alternative. I suppose, if any such situation presented itself, that the Executive Committee would then find some way of presenting a rewording of the provision, so as to stop that; but that particular problem was not before us.

Mr. Tappan: As to the problem raised by Dean McMurray: In California no certificate is required, and our institution believes we qualify under all of the requirements, and are entitled in our night school to a degree. At the present time, we have not granted degrees, and also the condition is exactly the same as outlined. We have never granted degrees. We do not have to grant a certificate, and it would be within the terms as outlined at the present time.

Mr. Vold: Since this discussion has taken place, I have formulated an idea I had before I came, that in paragraph 2 of these provisions, the way to solve the problem is to leave out all the qualifications as to what is done with work, and simply provide that a part-time school shall require a course of resident study that meets the Executive Committee's equivalent; a part-time school shall require a course of resident study that in the opinion of the Executive Committee is equivalent to the requirement of a full-time school. That is the first comment that I have to make. It seems to me that would be better than the substitute that was read this morning, as well as better than the original in the printed announcement. It would give the Executive Committee complete control, and would let it deal with individual cases as they arise.

I would therefore, if it is in order, move as a substitute for that part of the proposal the wording that I have just given.

President Jones: Will you hand us the phraseology? Is there a second?

Seconded.

President Jones: Do I understand this is to take the place of, is to be a second sentence in paragraph 2?

Mr. Vold: It is to take the place of the wording in the proposal.

Secretary Aigler: Your proposal, Mr. Vold, is to strike out from the typewritten sheet the words beginning "which" and ending with "examinations."

Mr. Vold: In the original form.

Secretary Aigler: In the typewritten form, strike out the words beginning with the word "which" and ending with the word "examinations," so that it would read this way: "A part-time school must maintain a curriculum which in the opinion of the Executive Committee is equivalent to a full-time school." Am I right?

Mr. Vold: You are just right.

Secretary Aigler: The motion is then to strike out those words.

President Jones: The motion is to strike out from the rephrasing of this second paragraph, as appearing on the typewritten sheet, the words "which grants law degrees, or which issues certificates to be used for admission to the bar or for bar examination," and substitute "shall require a course of resident study that in the opinion of the Executive Committee is equivalent to that of a full-time school."

Mr. Hudson: It is no substitute.

Mr. Vold: I had framed my original wording on the basis of the original proposal. This is the reason for that. The new proposal, as I have just phrased it: "A part-time school must maintain a curriculum which in the opinion of the Executive Committee is equivalent to that of a full-time school."

Secretary Aigler: I believe, Mr. Vold, as far as the Executive Committee are concerned, they would be quite satisfied with that wording. I have not had a chance to consult with the rest of them, but I suspect that they would be quite agreeable to that.

Mr. Patterson: That would require, however, some qualifications in the last paragraph, would it not, because the last paragraph is designed to distinguish between two types of instruction; that is, what is real professional instruction that might be given by extension work or correspondence would really be preparation for the bar, and the other type of instruction would be instruction in law, the cultural study or preparation for business. The reason we inserted those words is to distinguish between those two types of instruction. We do not desire the possibility of a university giving instruction which would be called law instruction in business law, but yet which would not be leading to a special degree, and I wondered if your motion would affect in any way the proposed language in paragraph 3 of the Executive Committee's proposal? Had you considered it in reference to that?

Mr. Vold: I had considered what appears in the last paragraph in this second provision. I had a question on the application of that, although I have no question to raise on the form in which it stands. I have no objection to retaining the language as there proposed, because the instruction there referred to is not by member schools, but by other departments of the university with which they are associated.

Mr. Keedy: I do not agree with the suggestion that the change in the second paragraph requires a change in the last paragraph. The change in the second paragraph has to do with the qualification on the definition of a part-time school. The qualification in the fourth has to do with the type of legal education, with which this association has nothing to do, as, for instance, a

course of law, a part of a business course, or constitutional law. We have no concern with that. Therefore I think the two can stand.

Mr. Pound: I think we shall not get anywhere if we try to amend a matter of so much importance as this by patching with suggestions made this way from the floor. It is pretty evident some of these matters require rather careful consideration and careful drafting. If I may suggest, I think what we ought to do is to refer this back to the Executive Committee to redraw it, that a new amendment be drawn, with the suggestions made here, and all that have further suggestions hand them in to the Committee, so we may have the benefit of those suggestions. I don't know as it is exactly in order; but, if the movers of these motions would consent, I would move as a substitute that the matter be referred back to the Executive Committee to redraft, and do it in line with Mr. McMurray's, Mr. Vold's and the other suggestions that may be handed in to the Committee.

Seconded.

President Jones: The motion is that this third paragraph as amended by the Executive Committee be referred back to the Executive Committee for consideration, and further report.

Mr. Albers: Tending towards showing why that last motion should be adopted, I want to call attention to another matter in connection with paragraph 4, which, as written, might occasion a good deal of embarrassment. Suppose a student has gone to Yale College and studied Constitutional Law or Business Law. Suppose the bar examiners in the state do as they are beginning to do, and I hope they will do more and more, ask the applicant what was his preliminary study, and he said, "I received a degree at Yale," or "I studied three years at Yale," and then the bar examiners do as they sometimes do now, and send word to Yale, or ask the applicant to produce a certificate, and he then gets a certificate that he studied Constitutional Law, and, if you choose, Business Law; under the exact phrasing of paragraph 4, Yale Law School would cease to be a member of this Association, because Yale College gave a certificate to that young man that he had studied Constitutional Law, and that is not the purpose of that amendment. That needs redrafting.

The motion of Dean Pound was put.

President Jones: The ayes have it.

Secretary Aigler: The next item of business is the report of the Executive Committee with reference to the part-time curricula that have been submitted to the Committee for approval under the language of section 3 of Article 6. That, of course, refers to the provision that part-time schools must maintain curricula that in the judgment of the Executive Committee are the equivalent of

the requirements for a full-time school. The Executive Committee has had submitted to it, curricula from three member schools, the Law School of the University of Southern California, the Law School of Creighton University, and the Law School of George Washington University.

There is another question that will have to come before us that is tied up with this same proposition, and that is the matter of applications for membership from the remaining two of the four schools that I mentioned a while ago that applied for membership. I did not name the other two. I said that there were four. We have already acted on Mercer and Wyoming. The two remaining applications are from the Law Schools of De Paul University and of Loyola University of the City of Chicago. The Executive Committee, I may say, has labored for many hours in the consideration of this problem, as to what type of curriculum in a part-time school should be considered as equivalent to the requirements of a full-time school, as defined in the Articles of Association. I believe that I would almost be warranted in saying that the Committee gave the matter prayerful consideration. The Committee had in mind the provision of our Articles of Association, in Article 1, that the object of the Association is the improvement of legal education in America, especially in law schools,

Now, I do not want to be understood as in any sense arguing this matter. I simply want to make a report, stating as accurately as is possible for me to do the action and the reasons for the action of the Executive Committee. I think I am entirely correct in stating that every member of the Executive Committee has felt that in at least one sense there is not any such thing as an equivalency between the curriculum or the work of a part-time school and the work of the full-time law school.

I say, in a sense, that there is not any such thing as an equivalency, no matter how much time or how many hours of work are devoted to the work of the part-time school. At the same time, I think I am equally safe in saying that the members of the Committee felt that in another sense, and perhaps a more practical sense, there is such a thing as an equivalency, taking everything into account, and we considered whether or not we should say that a five-year course in a part-time school, and, of course, you remember that our Articles of Association define part-time schools as those schools the majority of work in which is given after 4 p. m., or in which regularly there is required less than twelve hours a week of class room work—as to whether or not we should not say that five years of work in part-time schools, so defined, running perhaps eight hours a week, or nine, or ten, would be treated by us as the equivalent of the require-

ment for a full-time school, which, you remember, is ninety weeks of resident study and the completion of one thousand and eighty class room hours. So far as hours in the class room are concerned, and probably—though as to this it was rather difficult for us to form any judgment—probably so far as working hours are concerned, there would be an equivalency. Then, too, we considered whether or not, if the Association were to say that five years of study in a part-time school would be necessary to make an equivalency, that would not mean that the part-time schools that were requiring a course so prolonged would be in the position of having no students, and that the result would be simply that all of the students that, by reason of circumstances, are driven into part-time schools would not in turn be driven into the weaker part-time schools which are largely proprietary, and, you know, conducted for profit.

That led us to consider whether we might take a four-year course in a part-time school as a basis of equivalency—four years, perhaps, of, let us say, forty weeks each, which would give one hundred and sixty weeks of class room instruction as required, for the ninety weeks required for a full-time student. I say, we considered all of that.

Now, concretely, with reference to the curricula that were submitted to us, the Law School of Southern California submits a curriculum covering five years, or perhaps, I should say, more accurately, fifteen quarters, four years and three-quarters; the work scheduled running eight hours per week. The curriculum submitted by Creighton covered a period of study of four years or thirty-six weeks. I think I am right. It was either thirty-four or thirty-six. The curriculum submitted by the Law School of George Washington University covered a period of four years of thirty-six weeks each. After giving these curricula our best thought, the Committee decided to approve the curriculum of the Law School of the University of Southern California, and the curriculum submitted by the Law School of George Washington University, but to disapprove of the curriculum submitted by the Law School of Creighton University. Naturally the question arises in your minds, and I am going to answer it before somebody speaks it, why did we pass the curriculum of George Washington University Law School, which covers a period of four years of thirty-six weeks, while the other one that we approved covered five years of thirty-two weeks each?

Of course, I suppose one answer might be made to that, that the Committee was of the opinion, which it was not, that we were satisfied with a four-year curriculum in general that covered thirty-six weeks a year. I say that was not the reason why the Committee made that distinction between those two

curricula. The Committee felt that the situation, the time when the work is given, the type of student, history of the school, the type of instructional staff at George Washington University, warranted us in approving that curriculum, though it covered only four years of thirty-six weeks each. We shall have a resolution to present to the Association covering the general attitude of the Executive Committee. It comes up in connection with the applications for membership of the two schools that I mentioned, De Paul University Law School and Loyola University Law School.

Those two schools conduct both full and part time courses. The action of the Executive Committee with reference to those applications is as follows: Now, I read this at this time, because I want to get before you entirely the view of the Executive Committee on this problem as to equivalency between a part-time and a full-time curriculum. The resolution is as follows:

"Resolved, that the Executive Committee recommend that action upon the applications of the law schools of De Paul and Loyola Universities be postponed.

"Resolved, further, that this Committee recommend to the Association that the applicants be notified that, upon the establishment of curricula in their part-time schools covering a period of at least one hundred and sixty weeks, distributed over not less than four years, exclusive of holidays and vacation periods, and their compliance in other respects with the requirements of Article 6, they will be eligible to membership."

I think I have now presented to you the entire action of the Executive Committee with reference to this general problem. I realize that the specific thing before us is the report of the approval by the Executive Committee of the part-time curricula submitted by the three schools that I mentioned, Southern California, Creighton, and George Washington. Creighton was not approved, so really we may as well eliminate that. I have read this other, simply to get it all before you.

President Jones: The Articles provide that the action of the Executive Committee in approving or disapproving part-time curricula, on the ground that they are or are not equivalent to full-time curricula, shall stand until set aside by a vote of a majority of all the members of the Association; so, if there is disapproval, it will have to come in the form of a motion to set aside the action of the Executive Committee as to these three schools, or as to any one of them. Is there any motion?

There being no motion, it will be understood that the action of the Executive Committee stands.

Secretary Aigler: The next item of business then arises on the resolution which I

read a moment ago: (Reads resolution regarding applications of Loyola and De Paul.)

I have a number of copies of this resolution, which perhaps you would like to have for your consideration.

Mr. Hale: Do you wish this resolution to stand, without any reference to the number of hours per week devoted to the instruction?

President Jones: This makes no reference to that question. It leaves that for the Executive Committee.

Mr. Hale: I understand this does not become definitely binding upon the Association, does it?

President Jones: I should say this was rather a declaration of policy by the Association.

Mr. Patterson: I notice that the resolution says nothing about the number of hours per week. By way of explanation of that seeming oversight, I should say that the Committee was considering the two curricula which were submitted by De Paul and Loyola, and that both of those curricula provided for at least eight hours per week of law instruction. We had in mind eight hours per week as the minimum requirement under this part-time curricula. I think there would be no objection to inserting that in the motion.

Mr. Hale: I think that would be a reasonable change.

President Jones: May I make this suggestion, that we would still be bound by the requirement that there be one thousand and eighty class room hours, one hundred and sixty weeks; cutting out during that period eight weeks for examinations, two weeks per year, would leave or would give the school one thousand two hundred and sixteen class room periods, considerably exceeding the minimum of one thousand and eighty.

Secretary Aigler: To raise the question formally, Mr. President, I move the adoption of this resolution.

President Jones: Both of them?

Secretary Aigler: Yes.

Seconded.

Mr. Smith, Columbia: I would like to move that this resolution be amended to require at least eight hours per week in the part-time schools. I don't think the requirement of one thousand and eighty hours, which you referred to, has any application to the part-time schools; that requirement of one thousand and eighty hours refers only to the full-time schools.

President Jones: But the requirement is that it be equivalent. That is in the Articles of Association.

Amendment is seconded.

President Jones: It has been moved that the second paragraph of these resolutions be amended so as to require eight hours per

week, at least eight hours per week, and that amendment has been seconded. Are there any remarks?

Mr. Johnson, Youngstown: I should like to suggest that year after year this problem will arise, unless we put it into the hands of the Executive Committee and leave it there, to be disapproved according to their regular constitution; day after day and hour after hour will be taken up with this matter.

Vote was taken, a rising vote, and thirty-seven vote aye and forty-six vote no.

President Jones: The amendment is lost. We will recur to the original motion.

Motion was put.

President Jones: The ayes have it, and the resolutions are carried.

President Jones: I promised to announce the Nominating Committee and the Auditing Committee. The members of the Auditing Committee are W. G. Hale, of Oregon, Chairman, Paul E. Bryan, of Emory, and Malcolm McDermott, of the University of Tennessee. The Nominating Committee is as follows: Chairman, Prof. Joseph H. Beale of the Harvard Law School, A. A. Bruce, Northwestern University Law School, Austin T. Wright, of the University of California Law School, Everett Fraser, of Minnesota, H. W. Arant, of the University of Kansas Law School.

Adjourned at 12:45 for lunch.

Second Session

The second session opened on Thursday, December 27, 1923, at 2:30 p. m., with the address of the President, Mr. Henry Craig Jones. The address, entitled "The Law School Summer Session," is given in full on page 279 of this magazine. The discussion following the President's address is given below:

Chairman Cook: The discussion of the address will be opened by Dean Bates of the University of Michigan Law School. Prof. Sunderland will read Dean Bates' paper.

Prof. Sunderland: Dean Bates found that he was unavoidably detained at the last moment, and would not be able to reach Chicago in time for this meeting, so that he asked me to read the following discussion, which he had prepared in respect to the paper that has just been read. Dean Bates' paper follows:

The work of this Association has been of inestimable value in promoting legal scholarship and legal education. Perhaps of even greater benefit than the advance in requirements for admission, and standards of work for the member schools, has been the stimulation of intellectual activity and of scholarly pursuits, through the exchange of ideas at the annual meetings. But there is a by-product of these very beneficial discussions

which may, unless guarded against, militate somewhat against the realization of the fullest and richest development in the field of legal education. That by-product is the tendency toward uniformity or standardization in the work of the several schools. To a great extent standardization is desirable, but if it is carried to the extreme of making of each and every school a kind of mold for the lawyers of the future, like that of every other school, we shall have lost much indeed. It is not desirable that everybody wear the Arrow brand of collar. Some diversity of training to meet the varying needs of this huge and heterogeneous country, and very careful adaptation of methods to the needs, the constituency, and the financial means of the several schools should be striven for.

These considerations may be profitably applied to the problems connected with the summer session, and seem to me quite pertinent to some of the very interesting suggestions made by Mr. Jones. There are not a few bases upon which law schools may be classified; but, without attempting to enumerate all of the classes, which perhaps are as numerous as the individual schools, the schools roughly may be put into these classes:

1. A majority of the members of the Association draw their students largely from the states in which, respectively, they are situated, and presumably a majority of their students remain in such states for their practice. On the other hand, a few schools draw their students from a large number of states and from some foreign countries. Not even the striking papers of the lamented Albert Kales concerning this subject have convinced me that local schools, if that name may be applied to those of the first class mentioned, should confine themselves to teaching local law in the manner urged by Kales. But I readily concede that I may be wrong about this, and certainly a number of schools are at least tapering off their instruction with a treatment of the local law, particularly in matters of practice, conveyancing, and other mechanistic subjects suggested by Mr. Jones for special treatment in the summer session. It is quite apparent, however, that schools with what we may term roughly a national constituency ought not to confine their teaching in any sense to the local law, from which it follows obviously enough that schools of the two types will scarcely look at the problem from the same angle or reach the same conclusions.

2. A second method of classifying law schools is with reference to the kinds of constituency which the schools serve. Thus a great majority of the graduates from some schools sally forth, diplomas in hand, to fly immediately the traditional shingle to the breeze, mostly in the smaller cities and towns, whereas the graduates of other schools in general serve an apprenticeship as clerks in

law offices, chiefly in cities, let us say, of a population of one hundred thousand or more. This basis of classification should not be pressed too far, but is it not clear that schools of the two types thus indicated ought to examine some of Mr. Jones' suggestions from different points of view?

3. A third pertinent classification would point out that the endowed schools, on the one hand, and those associated with the state universities, on the other, may and ought to have somewhat different objectives in relation to the subject-matter under discussion. Among state institutions themselves there may be wide variations in this regard. Thus, at least in one or two of the older state universities, the law schools are so thoroughly established, and command such unhesitating support from the state, that it is wholly unnecessary for them to enter fields not clearly educational in the traditional sense, for the sake of securing financial, moral, or other support. Moreover, in the older states, customs and institutions and methods of caring for the official legal interests of the state are more thoroughly established than in some of the newer states; and in such cases it might be positively unwise for the law school to reach out for functions which are now being performed by other departments of the state government, or by bar and other associations.

Finally, it may be suggested that, in considering Mr. Jones' proposals, our law faculties must take into account such matters as the extent of their financial means, the size of their faculties considered with relation to the duties already resting upon them, and the numbers of students in attendance.

Mr. Jones has suggested four operating motives which have entered into the *raison d'être* of the summer session. He might well have added as a fifth the desire of many students, which he refers to in another connection, to study more courses than is possible during three academic years. A sixth motive might be found in the desire on the part of university authorities to keep the so-called "plant" in operation the year around. So far as the material equipment of a university is concerned, much is to be said for this contention; but it is often urged by those who have not even a faint glimmer of what a university is for and about. Thus a few years ago a thoroughly conscientious and moderately intelligent university trustee of many years of service drew a delightfully naive picture of a university as he saw it. It began, of course, with the trustees as at once the fountain and the source, the proprietors and the rulers.

"The trustees," he said, "employ a man called a president, who in reality is a driver" (and a driver subject to their approval), "who hires" (note the term) "a lot of professors who are the horses or mules" (I have seen which, in the picture)." The f

the driver where the goal is and what load to carry there. The driver cracks the whip and the mules do the rest." This is a beautiful and moving picture, and indicates a state of mind which has more regard for mere administration and the material equipment than for the true aims of education and for those who are actually doing the work; and I confess to a doubt, which recurs now and again, as to whether the summer session is, everything considered, beneficial to all of the mules.

However that may be, there is no question in my mind but that the summer session serves the needs of a large class of superior students, and I have in mind chiefly the graduates of colleges, who leave their institutions with diplomas, but unfortunately in debt, and who find it necessary to teach in high or other schools, or engage in work for a time. It is very easy to plan the summer session so that it shall offer the equivalent of one-third of an academic year of work, and thus to enable this type of students (just referred to) to teach school, say, for three years, and during the intervening summers obtain one year of credit toward a law degree. Some of this class of students will prefer to work at remunerative employment consecutively for a year or longer, and then, beginning with the summer session, to follow that up with regular academic years and two other summer sessions, thus shortening the calendar period of study by about nine months. These classes of students have formed the staple of our summer sessions, and it seems to me highly desirable to begin with orthodox first-year law subjects, for their benefit.

There is some force in Mr. Jones' suggestion that a student taking only two subjects will not be able properly to correlate and digest his subjects. If the process were to be long continued, I would agree that the objection would be serious; but for a period of ten or twelve weeks I do not think that it is. Indeed, I am not certain but that, despite some loss in this regard, there is on the whole a gain. The beginning student is usually confused with the multitude of cases and the variety of subjects for the first ten months of his course. It may in this respect be a positive gain for him to begin with only two subjects in the summer session. When the academic year opens in the fall, he will have found himself, to a certain extent, will have become familiar with legal terminology, will have some notion about two of the fundamental fields of the law, and he will be in better position than to begin his first academic year intelligently. Moreover, I do not believe that the first or even the second year student is prepared to derive anything like full value from courses in legal history and legal philosophy.

It may well be that schools with a largely local constituency, committed to the teaching of local law, could wisely adopt the sug-

gestion of teaching the mechanics of practice and the art of advocacy in the summer session, though I confess to great skepticism, particularly with regard to advocacy. I believe in teaching Practice, and in the Practice Court, as purely ancillary to the teaching of the theory of Practice, because I believe these courses contribute greatly to the student's knowledge of substantive law and tend to make him a better office adviser, as well perhaps as a somewhat better trial lawyer, other things being equal, than the man who has not had this experience. But this work should fit closely into an integral scheme of study, and should not be regarded as in any sense a rehearsal for actual trial work.

For somewhat the same reasons I doubt the value of giving courses in the examination of abstracts of title, or in the administration of estates, at least for the larger schools, with students coming from many states. I feel quite certain that in such schools the drag upon the professors' time, even where outside help is employed, and the expense of the undertaking, are disproportionately large compared with the benefits derived. Work of this kind tends inevitably to become mechanistic. The legal principles of land titles and of the devolution of property are taught in the orthodox courses in the schools. The application of these doctrines, I think, can be learned only in the office and court room. Moreover, methods of law business differ from state to state and even from county to county. The mechanics of the examination of an abstract of title in such a county as Cook, Illinois, vary greatly from the methods employed in rural counties, even in the same state. Considerations such as these led us at Michigan, some years ago, to discontinue the courses in the preparation of legal instruments, as on the whole not worth while during the regular year. I can see that in a comparatively small school, with a local constituency, perhaps the situation might justify such courses in the summer.

Benefit would undoubtedly be derived from the adoption of many of Mr. Jones' suggestions, but it is a question of relative values, and I dislike to see any law teacher, who is capable of productive scholarship, chained with such weights as these courses seem to me to be. Suggestions of very great interest made by Mr. Jones are those concerning conferences of law and certain other state officers. This may prove to be a fertile field. It is true, I think, that there has been little contact between the bar and the law schools, and that better understanding between them might lead to greater co-operation and might, for example, be helpful in obtaining higher standards for admission to the bar. I can conceive, too, that much good might come from, say, an annual conference of the county attorneys, or other prosecuting officers of

the state, or of those concerned officially with the public utilities, and of other administrative bodies dealing with legal problems. I have little doubt that in some states the leading law school might well conduct this work, whereas in other states the schools might find it inexpedient or practically impossible to do so.

Unquestionably, very great benefits might accrue to the public from the holding of conferences of the kind indicated, under good auspices: but in general, or at least in the older states, is not this the business of such officers, or of the state bar associations? If the law school spends the time and energy of its professors, and even of its dean (and I recognize that deans are, on the whole, a bad lot and deserving of little consideration), or uses any of its income in this way, even in the richest school, when the balance is struck, will it point to the debit or the credit side? I think it the duty of law teachers as individuals to co-operate, so far as possible, with the officers of the state in local and civic enterprises for which they are qualified, and especially that they should do what they can to energize, and incidentally to lead, the bar associations.

Many of the functions which Mr. Jones proposes, it seems to me, might well be undertaken under the auspices of the latter organizations. If members of the school faculty will busy themselves in editing, where desirable, a bar association journal, will do what they can, as members of the bar association, to secure the attendance at the annual meetings of the bar associations of circuit, probate, and other judges, prosecuting attorneys, members of the various administrative boards, with special sessions for each of these organizations, they will, I am inclined to think, at least in the older states, accomplish more good than could be realized by the undertaking of the state law school officially to summon, chaperone, and guide these conferences.

I have been frank in expressing my opinions, and if they have not been altogether in agreement with Mr. Jones' proposals, that does not mean that his paper has seemed to me otherwise than interesting and stimulating.

Chairman Cook: The discussion will be continued by Dean Fraser, of the University of Minnesota Law School.

Mr. Fraser: Mr. Chairman, my mind goes along with the President's in criticism of the orthodox summer session. I believe with him that we can have summer work that will not be subject to this criticism which will serve a useful purpose. I am not so sure that summer work should be added to the three years' requirement at this time.

What are the objections to the orthodox summer session? The chief objection in my opinion is the acceleration of graduation which it offers and the effect of this provi-

sion for acceleration on the organization of the work of the regular academic year.

It is necessary that the curriculum of the regular year be adapted to accommodate the summer students, particularly to enable them to graduate one quarter, one semester, or two quarters earlier than they normally would. To this end school work much be organized on the quarter or semester basis. We believe the best law course is one in which a student carries a number of subjects for two or three hours a week through the academic year. Returning repeatedly to a subject, keeping it in mind over a long period of time and repeated reviews give the students a better grasp than can be had when attention is concentrated on two or three subjects for a quarter or half year only. This is particularly true of the first year work. A proper understanding of Contracts, Property, or Torts cannot be had without parallel study of the other fundamental subjects. We start, then with the premise that a law course organized on the academic year plan is the best course. As the majority of students attend only during the academic year, they should receive first consideration and their interests should prevail over the interests of the few who are in a hurry. Summer work should not be allowed to destroy the integrity of the regular course.

The second objection is that students beginning work in summer get an emasculated course. There is an aggravation of the defects of the quarter system when the student is required to complete a course in Contracts in five or six weeks. These students do not fit into the regular curriculum. They must take advanced work in their first year, for which they are not prepared, in order to get a full course. Many students beginning in this abnormal way do not get their stride. We have had experience with the orthodox summer session, and we were quite willing to sacrifice it entirely to these considerations.

In the summers of 1919 and 1920 we had orthodox summer sessions to forward students retarded by war service. The school at the same time changed from the semester to the quarter plan or organization. After two years' experience of the quarter plan, we wanted to get away from it. We did not wish to go back to the semester plan. We adopted instead the academic year plan. All major subjects continue through the year, and final examinations are held at the close of the year, on the whole year's work. Consequently we could admit students only at the beginning of an academic year, and could graduate them only at the end of a regular year. Acceleration of graduation because of summer work became impossible.

We thought that we would have to abandon the summer session entirely, but we felt obligated to continue it during the summer of 1921 for those who had been led to expect that their graduation might be accel-

ated. We gave notice, however, that those taking summer work for the first time could not be graduated earlier because of it, and that no summer sessions would be held after that year. We were surprised to find that the attendance was double that of the preceding summer. This experience induced us to continue holding summer sessions, which do not accelerate graduation to less than three regular academic years. In these sessions of the last two years we have not provided any work for beginning students. Only students who had completed one or more years of law were admitted. Twenty-four per cent. of the junior and senior classes of last year and of the current year were registered in the summer session of the preceding year. There were a few students from outside. We made no attempt to reach the lawyers.

Students' reasons for taking this summer work are various. Some of the students on the law review take it to lighten the burden of the regular academic year. A few self-supporting students, who are unable to carry the full course in the academic year, overtake their course by work in the summer school. Some take it because of failure, but the number is comparatively small. A number of the summer students take the summer work to supplement the course required for the degree. They have more than the necessary credits when they graduate.

Thus in an accidental way we have found how a summer session may be made to serve a useful purpose. It is worth while providing work for the law review men, for the self-supporting students who are unable to carry the burden of the regular year, and for those students who have developed such an interest in their work that they are willing to sacrifice their summer's leisure to additional study. It is unobjectionable that the summer work enables the flunkers and the faculty to make up what they lack. There is value in the fact that the work is voluntary and not time-saving. There is too much compulsion about our whole educational system.

Up to the present time we have not thought of our summer school serving any other purpose than providing additional opportunities for our students. We have made practically no attempt to attract students from outside the school. Students are lost to other schools by our adherence to this plan. But we are satisfied that we have adequate compensations for the loss.

I might say here, in case any one might be dissatisfied with their plan of organization, but feel that they are more or less committed to it because of the sacred principle of uniformity within their university, that the Law School is the only school or department in the University of Minnesota which is now on the year basis. All other departments are still organized on the quar-

ter basis. I may add, further, that while we are quite satisfied with our present plan, and have no intention to quit it, we should welcome the strength which company would give us.

As for the curriculum desirable in the summer session the President and I scarcely come to an issue. His plan contemplates a summer session which will be required of all students. I am talking of a summer session which is optional. Something would necessarily depend on the curriculum of the regular session. We have offered mostly orthodox electives, a few exceptional subjects. Some of the subjects suggested by the President I am not sure I would include at all. I would just suggest the possibility that some of them are looking towards the informational point of view in the teaching of law rather than training in legal thinking. Schools which are not giving any instruction in several of the subjects suggested by the President, such as examination of abstracts, preparation of legal instruments, organization of corporations, taxation, etc., would doubtless do well to provide some of this instruction in summer. We believe, however, that a limited amount of work of this kind should be offered to all students and in connection with all of their courses. We are convinced that somewhere in the course students should have problem instruction in drawing deeds, wills, papers necessary for organizing corporations, income tax returns, and other instruments in common use.

There is too much rigidity in our method of law teaching. A three years' grind, exclusively on the analysis of cases, is just a little too much of a good thing. The use of problems which the students are required to solve from the books, preparation of briefs, the drafting of instruments, preparation of papers in pleading and practice, are practical, useful, and desirable variations from and supplements to the analysis of cases. This kind of work reverses the thought process. It is synthetic. It compels the student to collect, clarify, and classify his ideas. It fixes them in his mind and gets them under his command. Whether these problems are to be used in connection with the several subjects, or as a separate subject, or both, they should be attended to somewhere in the course—in the summer school, if not elsewhere. I would use them, however, to present the regular subjects in a different way.

Subjects like comparative law, history of law, and jurisprudence, could perhaps be taught with some success in the summer after the completion of the second year. Students will not return after their third year. There is no particular reason why these subjects should be in the summer session, rather than in the regular academic year. It is rather a question of whether the student's time is better spent on them or on additional orthodox subjects. If he has completed

enough of the regular work in summer, he could take a limited amount of this kind of work in the third year, when he would be better prepared for it.

There are two suggestions in the address which have no relation to the instruction of the students in the law schools. The first is that the law school should furnish instruction for lawyers. This is a laudable objective. Two observations occur to me: First, if the lawyers come, they will not need instruction in practice and in the art of advocacy so much as in substantive law, legal history, jurisprudence, and comparative law. My second observation is a guess that they will not come.

The second suggestion referred to has no necessary connection with the summer session at all. It is that the law school have conferences of county attorneys and other groups in the state who might be interested in particular topics. The law schools should undoubtedly take the lead for the improvement of the law of the state, both in its substance and in its administration. I do not know the states which have agencies organized for this purpose, which Dean Bates suggested, and as for the officers of the state, I don't know that they are charged with the improvement of the law. In fact, as Mr. Justice Cardozo points out, there is nobody in the states charged with such duty. Their duties are the administration of the law as it is.

Such conferences could be useful to this end. Teachers would benefit by contacts with the specialists in particular topics. The teachers in turn should be able to provide aid in solving the problems of these groups. Legal periodicals might be used more effectively than they are for this purpose. Bar associations might well be aided, and some life breathed into these valleys of dry bones. These ideas are good, but they have no necessary connection with the summer session, except that all have greater leisure at that time. They should have the attention of law school faculties in all seasons of the year.

Chairman Cook: The discussion will be continued by Dean Richards of the University of Wisconsin Law School.

Mr. Richards: I am not sure that I agree with the speaker in his analysis of the reasons why law schools have summer sessions. But, since his statements on that subject are but the inducement to his argument, I shall not take issue upon it. The author's main objective is clear enough. He believes that there is a gulf, more or less vast, between the modern law school and the practicing profession, and he proposes to bridge it. His belief is very commonly shared.

The law teacher is disappointed to find that the student, who hung on his words with such apparent interest until the final examinations, no longer shows a disposition to lean upon him, and to seek his aid. The law teacher is interested in the practitioner,

but the practitioner does not seem to be sufficiently interested in the law teacher. To awaken that interest, we see an active and frequently an ostentatious wooing, through law reviews, conferences, practice courses, and the like.

The speaker brings a new decoy to our attention. The reason for the gulf, if gulf there be, is variously explained. If the law teacher is feeling pessimistic, he is apt to think that he is regarded by the practicing profession as merely a drill master for immature minds; that his opinion on legal questions is regarded as of little or no weight, and he may bitterly denounce the bar as made up of money grabbers and legal jockeys, more absorbed in chicane than legal philosophy, and therefore unable to appreciate the honey stored up by the teacher, which might be the practitioner's for the asking.

I think the explanation lies elsewhere. We must not forget what has happened to the law schools of this Association in the last twenty-five years. In that period most of the schools have changed, not merely their methods of teaching, but the type of the personnel of their faculties.

Twenty-five years ago the faculties were largely composed of judges and practitioners. To-day they are composed of men whose chief activity is teaching. The new type are young men, and the oldest of them are now only in middle life. You have but to look around you at this meeting to realize that the bulk of the teaching is in the hands of young men to-day. The standing of the old faculties was determined, as far as the bar was concerned, by the reputation of its members as judges and practitioners. When this group changed, the profession and the public lost its basis of comparison. Men can best appreciate merit displayed by their competitors.

The faculty of the new dispensation is as a group young and not particularly aggressive. They are unknown to the public, and their work does not tend to publicity. That they teach better than their forbears is conceded by the bar and the public, but as members of the profession they have not seemed to count, since the accepted standard of valuation is success at the bar. It has even been said that they are not valued because they have not made the most of their opportunities as students and legal investigators.

I do not believe that the legal profession is very different from any other group. In the long run, if a faculty is made up of able men, who maintain high standards of scholarship for themselves and their students, their worth will be realized without the necessity of conducting an offensive to that end. We have evidence on every hand that the attitude of the bar toward law teachers is rapidly changing.

The impressive stand of the American Bar Association in favor of a training for all applicants for admission to the bar in schools of the type fostered by this Association is the highest evidence of this attitude.

The American Institute of Law is another impressive piece of evidence. The Institute is not merely an organization of law teachers, but embraces in its membership and interest a long list of distinguished members of the bar. In carrying out the proposed plan for the restatement of the law, the bulk of the work will be done by law teachers. If the project is a success, it will be due to the ability and industry of members of the teaching profession, and to them will be due the chief credit.

The growing recognition is the result of the law teacher doing successfully his twofold job, as teacher and legal scholar, and not by a resort to various devices, more or less meritorious, to attract attention.

The speaker introduces by way of analogy the medical profession and the medical clinic, and asks why we should not have a legal clinic. Analogies are convenient, but dangerous. There is no sound reason why lawyers would not profit from association and discussion the same as medical men, but practically there is not the same necessity.

Modern medicine is based on scientific investigation and discovery, a new method of anaesthesia, or performing an operation is the result of long investigation and experimentation. Co-operation is not only desirable, but essential. The public is keenly interested in the new discoveries, and the physician, who has attended clinics, finds on his return home that he enjoys a larger practice.

A lawyer is not in the same position. He is not a discoverer, but a prophet. He is dealing with known factors, or factors that an individual can know. His function is to apply his knowledge of legal principles to varying states of facts. A large part of his time is devoted, not to law, but to facts—to diplomacy, rather than legal philosophy. His reputation does not depend and cannot depend on what other lawyers have done, but on what he can do. His clientèle depends on acquaintances and his reputation for honesty and soundness as a lawyer. If, after his admission to the bar, he attends a law school, he is apt to conceal the fact as far as possible, since, if generally known in his community, it would hurt rather than help his reputation and practice.

Possibly the time will come when that will not be true, but I doubt it. The fact is, in preparing a young man for the bar, the law school and the practicing bar both have a part to perform. The law school can do one thing supremely well—teach the substantive law and the theory of procedure. The ability to analyze cases, and reason from them to new conclusions, is the principal thing a young man gets from a law course.

Why take the time already regarded as too short to attempt to teach the art of practice? At best it is unreal, and could not be justified at all, if it did not serve, when well done, to a better understanding of the substantive law by an approach from a new angle.

The speaker has great faith in the practitioner as a teacher in these fields of special practice. An occasional lecture would perhaps be of value, but the information obtained, and above all the facility obtained in dealing with realities in a law office under the tutelage of a good lawyer, is immeasurably better. It will be done with more interest, and the young man will be at the same time getting himself established in his locality. I do not believe young men at the bar will come back to the school for any period equal to a summer session. Certainly their elders will not. It has been tried, and so far it has failed.

In speaking of the crowded condition of the curriculum, and suggesting these special topics be relegated to an extra summer session, the speaker has opened up the whole subject of the curriculum. The Association has discussed it, and done nothing about it. It is my opinion that we have gone altogether too far in the matter of special courses. There should be fewer courses, and much time and confusion could be avoided by consolidation. Some effort has been made, but until the Association is ready to indorse such a plan, the expense of procuring properly arranged material is prohibitive.

While I do not agree with the speaker as to the content of the summer session program, I do believe in the feasibility and value of conferences fostered by the bar. Lawyers will come together for a day or so for such conferences and discussion, if care is taken to provide a program that involves questions that are of pressing interest to the practitioner. The lawyer is conservative, and an individualist; he does not accept innovations readily, and is apt to be particularly critical or contemptuous of suggestions coming from persons not in active practice. For that reason you cannot rush him, but he will take the results of discussions home with him, and think about them, and in consequence be more open-minded to suggestion in the future than he was before. It has taken twenty-five years of effort to induce the bar to accept the standards they have recently adopted; twenty-five years of effort by the committee on legal education and law teachers. Yet they have finally accepted it with surprising unanimity and enthusiasm; all the fruit of repeated conference and discussion in the section on Legal Education. The organization and purpose of the American Law Institute is likewise the fruit of a conference of the practicing bar and the teaching bar.

One could go on indefinitely multiplying examples of the value of such meetings. At the University of Wisconsin we have instituted an annual conference at Commencement time under the auspices of the Alumni Association of the Law School. The conference is not called by the law school, but by the Association, and its program is arranged by the officers of the Association. An effort is made to take up problems of particular interest to the local bar. For example, at the last meeting, the question of expert testimony, what can be expected from it, methods of preparing for such testimony was discussed by members of the medical faculty, who have had large experience in this field. Such conferences tend to lessen the gulf, if gulf there be, and to give former members of the school the feeling that they have not severed their connection with the school on graduation, but they are still united with the school, working in a common field to a common end.

Much has been done, and much more can be done, in connection with the meetings of the local and state bar associations. Round table discussions are well attended, and afford a common ground for the teacher and practitioner.

I submit that there is more hope for the law school that seeks to broaden its influence in the profession by taking advantage of the field now open in the bar associations and in the conferences referred to than in the speaker's plan to bring together the members of the bar with practitioners as teachers for a prolonged session, dealing with legal scraps of more or less value, most of which can be learned just as well as incident to active practice.

I may add that the speaker's plan for a summer session in addition to the three years or residence has been in force at Wisconsin for some time. As earnest of our belief that the teaching and practicing bar have distinct functions to perform in educating the young lawyer, we have required all students to serve a six months' apprenticeship in a law office after the completion of the three years of residence in a law school. If the student does not care to serve such an apprenticeship, or finds it difficult to make a connection with a satisfactory office, he may remain in residence for a summer session and receive his degree, provided he has taken the practice courses offered by the school.

Chairman Cook: The paper is now open for general discussion, and those who take part are requested to come out here in front, so that everybody can hear what you have to say, and also you are asked, before you begin, to give your name and school, so that it may be taken down for the minutes. Is there any discussion?

President Jones (having resumed chair): This is all of the afternoon session. The meeting will stand adjourned.

Third Session

The session opened on Friday, December 28, 1923, at 2:30 p. m., with Dean Pound's address on "Classification of Law," which will be found on page 269 of this magazine. The discussion of Mr. Pound's paper follows:

President Jones: Mr. Pound's address is now open for general discussion.

Mr. Borchard: I think Mr. Pound is, of course, correct when he says the purpose of a classification is practical utility, but there has never been enough interest among the common-law lawyers to justify any serious study of the question whether a classification other than this purely arbitrary alphabetical classification was justified.

The civil-law lawyer, like Redlich, who comes over here, stands in amazement to see that we put constitutional law, contracts, and criminal conspiracy, one next to the other, and look up our law in this fashion. Those men claim that to a scientifically trained mind that looks like anarchy. Therefore the pressure for a scientific classification has come, I think, rather from the European literature than from our own inherent feeling that we ought to have one.

Lord Hale did begin one, but I think it deserves the encomiums which Mr. Pound has heaped upon it. There have been a few other people who have attempted a scientific classification. I do not believe their names are known to one man in a hundred in the legal profession, and I take it that the main reason for that is that there has not been enough interest among the legal profession which deals with the common law to justify any serious effort in that direction. All of the schemes that have been prepared have been allowed to lie fallow, and nothing has been done with them.

The main purpose of any classification, I suppose, is as a step toward codification. Now, while the West Publishing Company plan, which Mr. Pound mentioned, does proceed on a theory of dividing the law into seven large subjects, into 34 smaller groups, into something like 412 smaller groups, still smaller groups, that is merely for the purpose of setting out the groups. The arrangement as it finally appears is a purely alphabetical arrangement, and that, I take it, is the ultimate classification.

Now, can we get at any more practical scheme than the alphabetical one? That has been bothering a lot of people for a long time. Perhaps any one will be somewhat arbitrary. Of course, it could not be more arbitrary than the alphabetical one. Can it be made more scientific? Mr. Pound's suggestion that the principle, after the general part, which is, I think universally admitted, is desirable, in which the conflict of laws would be found, a principle which begins

with legal liability as a source, is liable to be nearly as broad and unsatisfactory scientifically as the alphabetical one we now have, because legal liability means almost duties. To classify the law according to duties is fairly broad, and would hardly help the practical man—and that is the purpose of a classification, practical utility in finding the law—to find it any more readily than he can now.

Of course, a classification is desirable from a scientific point of view. It is perhaps something of an atrocity to have to look in seven or eight different places to find the law of infants—torts, contracts, quasi contracts—all over the field you go for the law of infants. You ought to be able to find it in any one place. Can any scheme be devised to bring about that objective? I think the whole legal profession ought to work at plans for classification. I think the subject deserves much more consideration than it has had, because, if the law is a science, it ought to have a scientific framework within which to fit it. It has not got that now at all. It is, however, not a need which arises from lack of knowledge of law. It is merely a formal arrangement of the law to enable one more quickly to find it.

Librarians have met this trouble a great deal; perhaps you know something of the conflict that has prevailed in that profession, to arrange the treatises on law in some less arbitrary fashion than the alphabetical arrangement imposes, and there have been schemes of various kinds. I think the Social Law Library in Boston has one of arranging the treatises according to some scientific plan. Well, if you know your library, your plan is all right; but, until you know that library, even the scientific plan is not much more helpful to you, I have found, than the alphabetical arrangement. For instance, there are many books on extraordinary legal remedies that cut through the field. You may get a clear book on contracts that you will put under contracts, but there are many subdivisions of contracts. Where are you going to put all the books on bills and notes, for example? Where are you going to put books on sales? Under contracts, or a separate subject? Those problems are settled more or less arbitrarily in each library for itself. If you know that library, you can use it. If you don't, you will have to study it until you can use it.

But the problem that Mr. Pound mentions is a problem which must precede any orderly arrangement of the law, and I take it that the reason that it is now alive again, and should be alive, is because of the American Law Institute, which presupposes some more orderly and better arrangement of our law than we now have. Perhaps it is a first step toward codification; perhaps not. If there is an effort to codification, of course, classification must precede it; but it is a subject which I think more than one or two men

ought to be working on. I think you would find it an exceedingly profitable subject to work on; but I think, from the fact that many men work on the subject of a scientific arrangement of our law, we may be ultimately able to get some plan that will satisfy the scientific needs of the legal profession, and it is only for utilitarian purposes, I think, and for no other.

Mr. Hall: In regard to the difficulties of the analytical arrangement of the law library, I recall an instance that came to my observation a few years ago, in the Library of the Supreme Court of New York in Buffalo. The new librarian arranged the books analytically. I ran across a book on the Right of Asylum under Insanity. That is a true story. I did it myself.

I wanted to ask Mr. Pound where, under this classification, he meant to put criminal law and constitutional law. I imagine criminal law would come under liability.

Mr. Pound: I should put private law, criminal law, and public law as co-ordinate. I don't think we can put criminal law under private law in modern times.

Mr. Hall: How about the branches of municipal corporations?

Mr. Pound: It seems to me municipal corporations is a subject that we should really have to divide. Part of that is contracts, the legal transactions of municipal corporations, their liability for tort; another part is the organization and function and management of those institutions. One, it seems to me, is a part of public law, and the other a part of contracts and torts. I believe we should do better by dealing with it in that way. A good many subjects, I think, will have to be dealt with in that way. You will have too much cutting across otherwise, and I think several things that we have been dealing with as co-ordinate with contract and tort will have to be divided up. I suspect strongly that master and servant will have to go that way. A possible line of division there would be where the contracts or torts of a municipal corporation were dealt with like those of an individual, and would come under private law.

Mr. Buchanan, Pittsburgh: Why should not agency be treated next to associations of a business character?

Mr. Pound: Because I think a very great part of agency, the largest part of it, perhaps, is the rights and duties and the relation of principal and agent. Our Digests put it, principal and agent. Usually a large part of it is there. For the rest, it is a question of representation in contract or representation in tort, not at all certain for any but historical purposes. The moment you have anything more than representation therein, there you have simply the question of the liability for what is done in the scope of the employment. Then you get the real marrow out of the subject, the rights and

duties annexed to, involved in, attaching to the relation, like trustee and syndicate trust.

Mr. Buchanan: Is not that relation similar to the relation between partner and partner, stockholders and stockholders, stockholders and directors?

Mr. Pound: Partnership is treated, if not an entity, as something analogous to it. Dean Lewis is proposing to make a general distinction between associations of all sorts for profit and those not for profit, as being more significant than the particular agency through which the association is organized. Agency, therefore, is quite distinct from those things that are developed around the analogy of an entity.

Mr. Hall: Between your division of heads of property and liability, most phases of property come up in an effort to make people liable. Take three or four of the common actions about the rights in real or personal property—which would you classify with liability; which with property?

Mr. Pound: I suppose all our apparatus in "trover" for instance, or conversion, that I myself, now am teaching, is property; really the principles there are very largely the principles of a tort liability, and it is only for pedagogical convenience that we are dealing with them in that way.

That leads me to say something that I omitted, as you might say, in the heat of debate; that is, that we must distinguish between a pedagogical arrangement and a classification for the purpose of restatement of the law. They are different things. It is generally believed that there was one of the less satisfactory features of what is an admirable performance, the new German Code. As some critics have said, that Code is nothing but a little Windscheib. It is a teacher's book more than a lawyer's book; so beautifully arranged from a pedagogic standpoint, it perhaps loses some of its value for other purposes. Let us remember that a teacher is never teaching classification. He is teaching the law, and he uses such classification as will enable him best to teach.

The teacher's classification is made in order that he may bring home certain things to those who do not know; the classification as a restatement of law is made for the convenience of those who are supposed to know, and therefore, no matter what our classification for our practical purposes, the teacher will always be experimenting with arrangements and rearrangements that will meet his pedagogic problems. I should therefore feel pretty strongly that we can leave pedagogic considerations out of our minds entirely in this matter, and the teachers will look after the pedagogic necessities when they come to teach the subject. However we have arranged it, probably no two teachers will, or ought to, arrange it the same way. They have individual peculiarities of teaching, individual problems with respect to students,

local problems of one sort or another that require more emphasis here, less there, that will determine pedagogic arrangements. I think we can leave those questions out of our mind.

Mr. Willis, Indiana: I want to ask Mr. Pound a question, since he has referred to the pedagogic aspect. I would like to ask him if he thinks there is any more reason pedagogically why conversion should be taught in connection with property than trespass should be?

Mr. Pound: I suppose the pedagogic arrangement, if you have a course of two hours in torts and two hours in property, you have got to arrange your matters somewhat with reference to the teaching hours. Consequently, it is a question of whether you will put a thing here or there. It is utterly without prejudice to what you might think would be a proper place for it in our restatement of the law. In other words, we are not teaching the student any particular analytical arrangement when we get a pedagogic scheme of this sort. We are simply getting a convenient mode of presenting the whole subject of property, torts, contracts, criminal law; then we are dividing it up for the purposes of instruction this way or that. I don't conceive the matter is very important—whatever the author of the casebook may do, the teacher is sure to have different ideas, and he will apply those and bring those out in his own way on the basis of these materials.

Mr. Hall: It seems to me the last few observations have come right to the heart of the matter. The classification is good or bad according to the purpose you are using it for. The alphabetical classifications in the telephone directory can not be beaten, but they are not good for other purposes. If you cannot get a classification for finding the law rapidly and with probable certainty, it may well be the alphabetical classification, with mechanical aids, current digests, if worked out alphabetically, would be the best. In choosing different pedagogic classifications, as Mr. Pound has indicated, you not only would choose a different one for scientific pedagogy, but the practical needs of our courses require other classifications. If you want one for the purpose of the American Law Institute, it may well be different from any of those. When we are discussing classifications, it has to be with reference to the immediate need we are going to use it for.

Adjourned at 4:20.

Fourth Session

The session began on Saturday, December 29, 1923, at 2:30 p. m., with a symposium on "Legal Research in Law Schools," led by Mr. Herman Oliphant, of Columbia University School of Law, and continued by Mr. Percy Bordwell, State University of Iowa College of

Law. This symposium is reported in full on page 293 et seq. of this magazine.

The balance of the meeting was devoted principally to Committee reports, etc. The most important part of the proceedings is given below:

President Jones: It seems best at this time to take up the question of the amendment to section 3 of Article 6, which was referred back to the Executive Committee for further consideration at the first session held on Thursday. The Secretary will read the proposed phraseology of the Executive Committee.

Secretary Aigler: Mr. President, before I make that report, let me say this: Some of the members of the Executive Committee felt that a word of explanation of their attitude might not be out of place in connection with the resolution that was presented last Thursday and adopted unanimously by the Association. I refer to the one in which the one thousand and eighty hours of work in a part-time school, distributed over at least four years, one hundred and sixty weeks, was adopted.

You remember that there was a point made then that there was no specification as to the number of hours a week, and it might be perfectly possible for a part-time school to comply literally with the requirements, and yet give only one hour of work per week. You remember an amendment was proposed and voted down. Members of the Executive Committee were rather glad that amendment was voted down, because the feeling, I think, of every member of the present Executive Committee has been that the problem in the case of these part-time schools has not been so much their requiring a sufficient number of hours per week, but rather requiring too much, and certainly the attitude of the present Executive Committee has been that eight hours a week should be rather a maximum than a minimum for effective work in that type of school.

If there is any fear that there will be too much easing up with reference to the part-time schools, the only thing to be said about that is that it depends upon the make-up of the Executive Committee, which, in turn, depends upon you. You remember that the Articles of Association provide specifically that these part-time curricula must be submitted to the Executive Committee and subjected to its approval or disapproval. As long as the Executive Committee of this Association is of the opinion that the present one has had, there will be no danger of any letting down of the standards.

Now, with reference to the proposed amendment, if you will refer to page 12 of your printed program, I think, by giving you the few words that have been suggested, you

will be able to interline them, or write them in the margin, so that we will have the language specifically before us.

The first paragraph stays as it is. In the second paragraph we need to deal only with the sentence in italics. If you will draw a line through the words in italics, beginning with the word "curricula," running down into the third line in italics, strike out everything through the word "must." Then insert these words, "A part-time school must maintain a curriculum which." Then, reading on, "in the opinion of the Executive Committee," then instead of the word "be" should be the word "is," "is equivalent to," and then in place of "the requirements for" just substitute "that of"—the two words. Let me read that as it would be, according to the proposal: "A part-time school must maintain a curriculum which in the opinion of the Executive Committee is equivalent to that of a full-time school." Then the last sentence of that paragraph remains, of course, unaffected.

There was no suggestion with reference to changing the third paragraph; that is, the next paragraph in italics. Then, with reference to the last paragraph in italics, in the third line, following the word "law," insert these five words, "designed to prepare students for." Then strike out from the italics "for which are issued certificates to be used for," so that it reads: "No school shall be or remain eligible to membership if the institution of which it is a part shall through any other agency conduct instruction in law designed to prepare students for admission to the bar or for bar examinations, save in conformity with the provisions of the preceding paragraphs." Have I made that clear? Mr. President, I move now the adoption of the new section 3 of Article 6, with those amendments.

Seconded.

Mr. Schoetz: I just want to ask a question. Of course it is understood that these provisions are not retroactive, I take it.

President Jones: In reply to your inquiry, I wish to say that that has been the attitude of the Executive Committee the past year on all questions of this kind. They have felt that new provisions were not retroactive.

On this the vote must be by schools under the Articles of Association. I will ask the Secretary to call the roll.

Secretary Aigler calls roll.

Secretary Aigler: It is a unanimous vote, Mr. Chairman.

President Jones: Forty schools for the adoption of this resolution and none opposed, and the amendment is declared adopted.

We will now pass through a long string of committee reports. May I make this suggestion, if any person making his report desires to abbreviate it with an oral presentation, instead of reading his report, that will

be declared permissible. First we have the report of the Committee on the Status of the Law Teacher, Mr. Fraser.

Mr. Fraser: I will necessarily do what was suggested, seeing that we have no printed report. The work which was done by the Committee, of which Mr. Bates was Chairman two years ago, was so complete that the Committee last year, of which I happened to be a member, felt nothing remained to be done, so it added a kind of an epilogue to what had been done by Mr. Bates' Committee, and it was the opinion of the Committee, as I recall it, that it might as well be discharged. The Committee is this year unanimously of the opinion that there is no occasion for a further report, and I believe it is unanimous, or all but unanimous, in the opinion that the Committee be discharged. I therefore move that the Committee on the Status of the Law Teacher be discharged.

Seconded.

President Jones: In this connection may I say that Committee was established by legislation of the Association, and there are no provisions for it in the Articles of the Association. It therefore can be legislated out of existence.

Carried.

President Jones: The ayes have it. The motion is carried, and the Committee is discharged.

Next we have the report of the Committee on Curriculum, Mr. Oliphant, Chairman.

Mr. Oliphant: The Committee's report, as you see, is very brief. There was referred to the Committee the task of suggesting concrete programs of study of prelegal subjects in college, and we started out to find out what was now being done in the different law schools, and from almost all of the law schools we have had answers, had excellent co-operation, and those answers disclosed some very interesting things. We are asking for another year of time to think about it.

President Jones: There being no objection, the Committee's report will be received and filed, and the Committee continued. The next is the report of the Committee on Recruiting the Teaching Branch of the Profession, Mr. Van Vleck, Chairman.

Mr. Van Vleck: The Committee, in its report printed on page 13 in the program, calls attention to the fact that it has completed the only work for which it has found any very widespread demand, the preparation of the first edition of the Law School Directory, Teachers' Directory. The preparation of the second edition, is now in the hands of Mr. Turner, of the West Publishing Company, and will be out in a few weeks. If the West Publishing Company could favor us with succeeding editions, the work will be in better hands than the Committee's hands, and it is therefore respectfully recom-

mended that that Committee be discharged.
President Jones: Do you make that motion?

Mr. Van Vleck: I make it as a motion.
Seconded.

President Jones: This Committee also was established by legislation and is not provided for in the Articles.

President Jones: The ayes have it, and the Committee is discharged. The next is the report of the Special Committee on the Reform of Legal Procedure, Dean Wigmore.

Mr. Wigmore: Mr. President, the report speaks for itself. I know of no member here that wishes to add anything to it.

President Jones: There being no objection, the report will be received and filed, and the Committee continued. The report of the Special Committee on the Juristic Center, Mr. Beale, Chairman.

Mr. Lewis: Mr. Beale is Chairman of that Committee. After we wrote this report we also wanted to be discharged; but, having the support of the American Law Institute, we felt, out of consideration for that, with fairly good accomplishment, we might accomplish something else if you kept us alive a year longer. We ask for an extension of life for a year longer. I move that the Committee be continued.

Seconded.

President Jones: The ayes have it, and the Committee is continued. The next is the Committee on Jurisprudence and Legal Philosophy, Dean Wigmore.

Mr. Wigmore: There seems to be a sentiment going up that that Committee should be properly chloroformed as soon as possible, and yet these two Committees, represented in the last two reports here, have been in existence so long that they have got quite used to being alive, and would perhaps feel some regret at being summarily put to sleep. The fact is, however, that there are two or three volumes remaining unpublished in the series organized under the auspices of the Association. It might be just as well, or highly acceptable, to continue these two committees a little longer.

President Jones: There being no objection, it will be understood that this Committee will be continued. The next is the report of the Committee on Legal History, Dean Wigmore.

Mr. Wigmore: I suggest the same comment, but there are other members of the Committee present that might be inspired with other views.

President Jones: Any other remarks from any other members of the Committee? This Committee will also be continued. The next is the report of the Treasurer.

Mr. Willis, Indiana: Would it be in order to move to refer a matter to the Curriculum Committee for report next year?

President Jones: I will entertain the motion.

Mr. Willis: I move that we refer to the Curriculum Committee for report next year the question of the maximum amount of credit which, in its judgment, should be given in the three-year undergraduate law course for work done in the courses in legal procedure, including pleading, evidence, practice, and moot court.

Seconded.

President Jones: The ayes have it. The motion is carried.

President Jones: The next matter is unfinished business.

Mr. Vold: May I make a suggestion? I find on my mind a very serious problem, as far as we are concerned in the Northwest. We have to-day discharged two Committees that were designed to look after the interests of the law teachers, and now is the time that we need looking after in the Northwest. During the inflation we received some advance in our rate of salaries, but not a great deal. The deflation has begun, and the first place where the state's authorities are disposed and tempted to deflate, so far as public expense is concerned, is in the educational expenditure, and while we stalled off any reductions last time, we are going to have the same problem to meet next time, and perhaps in exaggerated form.

Now, what we need is facts to support us, and the facts to support us are very difficult to obtain in any satisfactory way. During our previous experience I happened to be a member of the University Committee, which tried to compile information, and we got together, three or four years ago, some pretty elaborate statements of the financial facts that other institutions had, so nearly as we could get at them. That information is constantly becoming more and more completely obsolete, and needs to be kept up to date every year. Obviously, if we attempt to keep it up every year for ourselves, and others similarly situated, and there must be a number of them, attempt to keep it up for themselves every year, we have a lot of duplication and waste of effort. Furthermore, the individual members of faculties know very little about what the situation is in other places, and there seems to be a reluctance on the part of a good many members in spreading such information in any personal way, and I sympathize with that reluctance.

However, some knowledge of the general averages would be very useful for individual members in every faculty, and I therefore propose to include something on that in what I shall propose in a statement. I realize, however, that the suggestions I am about to make, if made obligatory and carried out, might become sources of friction in certain instances, at least, in university administration, and therefore I want to be as mild about it as possible, and therefore I simply propose this: That the Executive Committee be instructed to consider the advisabil-

ity of providing that, in addition to his other duties, the Secretary shall compile annually and keep available for the use of members of the law faculties the teaching load and the actual average of salaries paid to full professors in each of the member schools.

That is in case the Executive Committee finds the aforementioned provision advisable, the Secretary shall at an early date proceed

to the task. I had not said anything about the teaching load. That was not primarily on my mind in this connection, but Dean Fraser suggested that that was a matter on which we also needed information, and it might be included in the same general category. I have therefore so included it.

Seconded.

President Jones: The ayes have it.

Notes and Personals

William C. Van Vleck, for the past half year Acting Dean of the George Washington University Law School, has been made Dean, according to a recent announcement, of the board of trustees of the university.

The new Dean is a graduate of Columbian College, George Washington University. He graduated from the law school in 1911 and has received the degree of S. J. D. from the Harvard University Law School.

Dean Van Vleck has been associated closely with the George Washington University Law School since his graduation. He has been Secretary, Professor, and Acting Dean.

Dean Van Vleck supplants Merton L. Ferson, who was Dean of the law school until last summer, when he asked for leave of absence for a year to teach at the University of Missouri. Dean Ferson's resignation came to the board of trustees recently and was accepted with regret. It is understood he will become connected permanently with the University of Missouri.

The new Dean is a member of the legal clubs and is also a member of the board of managers of student activities and the law school senate.

Dean Van Vleck is unusually popular with the students. Through his work and influence, the recent American Bar Association and Association of Law Schools approval was given the George Washington University Law School courses for part-time students.



Last year saw the tenth anniversary of the founding of the Gonzaga University Law School. Edward J. Cannon, LL. D., Dean of the Law Department, was placed in charge of the school at its inception, and it is chiefly due to his efforts that this department has achieved an enviable record for scholarship and legal knowledge.

The classes are held every evening from 7 to 9:30 p. m., and the course extends over a period of four years. Only high school graduates who have completed two years of college work are eligible for the degree of Bachelor of Laws. Among the lecturers who

have been recently added to the faculty are Hon. Richard M. Webster, LL. D., Judge of the Superior Court, who lectures on Evidence. Judge H. M. Canfield holds the chair of Constitutional Law, while the school is particularly fortunate in obtaining the services of James T. Burcham, LL. D., former Professor of Law at Stanford University, California.

An extension to the Library has been added this year, under the supervision of A. B. Espinosa, '24, Librarian.



Plans have been completed for the 1924 summer session of the Cornell College of Law. The summer session will begin on Monday, June 23, and continue for eleven weeks. It will be divided into two terms, of five and one-half weeks each; the second term beginning on Thursday, July 31.

Courses in Contracts, Agency, and Personal Property will be offered for students beginning the study of law, and eight other courses, listed below, for students who have had some law study. The summer session is open, not only to students at Cornell, but to law students from other schools, who desire to take extra work or secure courses which they are unable to get during the regular year. Special students will be admitted in the discretion of the faculty. The summer session faculty includes the names of regular members of the Cornell faculty and prominent law teachers from other institutions. The names of the faculty and the courses offered by each follow:

Livingston Farrand, A. B., M. D., LL. D., President of the University.

Charles Kellogg Burdick, A. B., LL. B., Acting Dean of the College.

Horace Eugene Whiteside, A. B., LL. B., Secretary and Lecturer in Law, who will offer the courses in Agency and Personal Property.

Henry Winthrop Ballantine, B. A., LL. B., Professor of Law in the University of Minnesota Law School, who will offer the course in Contracts.

Armistead Mason Dobie, M. A., LL. B., S. J. D., Professor of Law in the University of Virginia Department of Law, who will offer the courses in Damages and Taxation.

Oliver Le Roy McCaskill, Ph. B., J. D., Professor of Procedure in the Cornell University College of Law, who will offer the course in Practice.

Austin Wakeman Scott, A. M., LL. B., Story Professor of Law in the Harvard Law School, who will offer the course in Trusts.

Robert Sproule Stevens, A. B., LL. B., Professor of Law in the Cornell University College of Law, who will offer the courses in Partnership and Private Corporations.

William Reynolds Vance, Ph. D., LL. B., Professor of Law in the Yale University School of Law, who will offer the courses in Wills and Probate Law and Insurance.

Graduate School in 1925

Announcement has been made by Acting Dean C. K. Burdick that, by action of the Board of Trustees taken at their January meeting, the Cornell University College of Law will become a graduate school in September, 1925. Beginning at that time, all entrants from other universities will have to present a Bachelor's degree. Students in the Cornell University College of Arts and Sciences, however, will still be able to get the 'A. B., and LL. B. degree in six years, by electing the first year of law as seniors in the College of Arts and Sciences. The new legislation with regard to the College of Law will have no effect with regard to students entering the College of Law prior to September, 1925.

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The following notice of the death of Dean Townes, of the Law School of the University of Texas, is quoted from the Texas Law Review:

"The School of Law suffered a very great loss in the death of Judge John Charles Townes, which occurred on December 18, 1923. He had been connected with the school for a longer time and in a more intimate way than any one else had ever been in the history of the school. He became a member of the faculty in 1896 and at the time of his death was in the midst of the twenty-eighth year of his service. For sixteen years of this time, from 1907 to 1923, he was dean of the school.

"Coming into the school at the end of its thirteenth year, Judge Townes had a large share in the development that in later years has given it rank with the better schools of the country. During his period of service the faculty increased from three professors to ten, and the student body from one hundred and fifty to nearly four hundred at the present time; the school now standing fifth or sixth in enrollment among the regular high-grade law schools of this country. During this time the library, the indispensable workshop of any successful law school, grew from about thirty-five hundred volumes to more than twenty-six thousand, now containing almost all extant judicial decisions reported in the English language, and some printed in other tongues. Equally marked changes have taken place in the standards for admission to the school and

for graduation, and in the expansion and development of the curriculum. To give Judge Townes all the credit for the notable progress the school has made during the last twenty-eight years would be to ignore the splendid services rendered by other able and devoted men who have been connected with the School of Law during those years, but it is well within the facts to say that during much of that time he was the leading factor in bringing the school to the place it now occupies.

"While it is difficult to estimate the permanent value of the work of one who has so recently gone from among us, we believe that it would be difficult to overstate the influence for good which Judge Townes exerted on the bench and bar of this state. About one-half of the active lawyers in Texas, many of them on the trial and appellate courts, were at one time or another students of this law school. Probably nine-tenths of all who were students here, came into close personal contact with Judge Townes either in his capacity as instructor or as dean. It is safe to say that there were very few among them who did not go away with a higher conception of the duties and responsibilities of the lawyer and the citizen. In his teaching, he emphasized character as the prerequisite qualification of the successful lawyer, and his life was a constant refutation of the popular error that a great lawyer cannot be a truly good man. The ethics of the profession and the judicial ermine are safe in the hands of the men who sat at the feet of our distinguished colleague.

"As a lawyer Judge Townes was accurate and profound, rather than brilliant, and these qualities, combined with his high character and fine professional honor, gave him a wide and varied clientele and a remunerative practice. His work on the district bench, in the '80's, first in the jumbo district of the west, reaching from Llano and San Saba on the east to San Angelo on the west, and later, in the district composed of Travis and Williamson counties, is still remembered for its effectiveness by the older citizens and the lawyers who practiced before him. A careful and painstaking student of the law, he left behind him valuable works on Elementary Law, Texas Pleading, and Torts."

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The following description of the dedication of the new law school building at the University of North Dakota is taken from the Grand Forks Herald of February 22, 1924:

"Dedication of the new law building at the University of North Dakota, beginning at 10 o'clock on the morning of February 22d, marked the opening of the annual observance of Founders' Day at the University of North Dakota. * * * Besides dedication of the law building, the morning's program was held in commemoration of the twenty-fifth anniversary of the founding of the law school. A presentation of the building was made by R. B. Murphy, chairman of the state board of administration, and acceptance was made by President Thomas F. Kane of the university. President Kane also presided at the exercises.

"An address declaring for the old-fashioned America representative government and election of men to office who are courageous enough to do what they think is right as a panacea for the ills of the nation, was given by Justice Royal A. Stone, of the Minnesota Supreme Court.

"Dean O. P. Cockerill, of the Law School, spoke on the subject, 'The Lawyer and the Changing Order,' pointing out the need for better trained lawyers to-day and for a difference of method in dealing with clients.

"Presentation of a picture of Guy C. H. Cor-

liss, first Dean of the Law School and at one time Chief Justice of the state Supreme Court, to the Law School by Phi Alpha Delta law fraternity was made by Gustaf Lindell, of Washburn, a member of the student body. Dean V. P. Squires read a letter from Mr. Corliss.

"Chief Justice H. A. Bronson, who was scheduled to speak on the morning program, did not speak until the luncheon at the University Commons at 12:30 o'clock. In his address he told of the need of understanding and appreciation of the federal constitution and a rule of law.

"Tracy Bangs also spoke briefly, uttering a warning against too much centralization of authority in the federal government, and urging that the nation get away from the hysteria of suspicion which is so prevalent at the present time.

"Music numbers on the program included a violin solo by Prof. F. A. Beidleman of the University Department of Music, and a contralto solo by Carol Miles Humpstone, also of the Music Department."



This notice of the death of Professor George Chase is taken from a statement by Professor Robert O. Petty, published in the Law Student for February, 1924:

"Professor George Chase, Dean of the New York Law School, was born at Portland, Maine, on December 29, 1849, and died January 8, 1924, at his residence, No. 309 West Seventy-Fourth street, New York City, where he had been confined for the last four years.

"Professor Chase early exhibited that industry, ability, and those scholarly qualities for which he was noted in later life. Entering

Yale he was graduated in 1870, being the valedictorian of his class. After graduation, he taught for one year in a classical school, and then, in 1871, entered Columbia Law School. The warden of the school at that time was Professor Theodore W. Dwight, who is regarded by many as the greatest law teacher of his time.

"Upon graduation from the law school in 1873, such a favorable impression had Professor Chase made upon Professor Dwight that the latter invited him to become a member of the law faculty of the school. Professor Chase remained a member of the law faculty of Columbia Law School as assistant instructor, instructor, assistant professor, and professor until 1891, when he and all the other law professors, except one, resigned.

"Immediately thereafter Professor Chase organized the New York Law School, of which he became dean, occupying that position until his death, although of necessity during his illness directing the law school from his sick room. The purpose of Professor Chase in founding the New York Law School was to pursue and develop the method of legal instruction followed by Professor Dwight—the 'method' as Professor Chase said, 'which receives its name from the distinguished instructor, Professor Theodore adopted and maintained during his long career as a teacher of law in New York City.'

"Professor Chase was the editor and author of several law books, including Blackstone Commentaries for American Students, Chase's Digest of the Law of Evidence and Chase's Cases on Torts. He was, however, so occupied with teaching that his time was limited for that productive legal scholarship for which he was so well qualified. Together with his other duties, he was, for a time, editor of the New York Law Journal."

W. E. K.

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S. E. Turner, Editor

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No. 6

The Future of Legal Education

By HARLAN F. STONE

Former Dean of Columbia University School of Law; Member of the New York Bar, and Attorney General of the United States

[The following article is reprinted from the April, 1924, issue of the American Bar Association Journal. The material in the article is largely made up from Mr. Stone's report as Dean of the Columbia Law School.]

ALL of scholarship and of professional training are not embraced within the old fashioned virtue of thoroughness and fidelity to the day's task and the inspiration which the practice of them brings, but certain it is that there can be no real scholarship and no sound professional training without them and they are far more important to the development of the professional law school than most of the educational plans and procedures which engage the attention of those who are responsible for the progress of legal education in America.

Professional training, especially in law, is in very real danger from a kind of competitive zeal which has for some years adversely affected undergraduate education in colleges and universities. The desire to do something distinctive, to give some evidence of originality, to attract public attention, or to secure patronage, has led from time to time to the presentation to the public of numerous

educational nostrums, as improvements upon the old educational fundamentals or as dispensing with them as relatively unimportant. "Point of view" on the part of the student or the callow instructor, on occasion, seems to be more important than the foundation of educational experience and intellectual capacity on which one may build the superstructure from which with years and experience he may hope to have a "point of view." "Openness of mind," it would appear, is more to be desired than the development of the mind's capacity to lay hold of the fundamentals of human knowledge and experience, and to organize and use them with discriminating intelligence.

Too often the organization of new courses and the rearrangement of old ones engage the attention rather than the mastery of the old and recognized fields of intellectual experience, for there is always a presumption in certain minds that the new and untried is an improve-

ment upon the old and established mode of procedure. Recently we have been told authoritatively that the true solution of the problem of legal education in America is to be found, not in a more thorough and exacting study of legal science or in better standards of education and bar admission, but in so organizing our system of legal training as to bring the bar within the reach of the great and increasing number of applicants whose training, both liberal and professional, is of the most superficial character.

These new educational "discoveries" are not wanting in novel and dramatic qualities which are lacking to the ancient educational procedure of hard work inspired and guided by competent teaching. Nor are they so difficult of application. They are often the more attractive to students, especially to that growing class of students in America who are seeking some painless and effortless route to professional efficiency and success.

By these observations, I do not mean, of course, that the last word on legal education has been spoken. There will undoubtedly be, from time to time, new ways of looking at law and new developments in the law itself which will affect the teaching and study of it. Nevertheless the constant search for the new and dramatic merely because they attract attention or have advertising value tends to shift emphasis from the essential and fundamental to the more superficial aspects of the educational process and to that extent it is a serious menace to the stability and orderly progress of professional education.

Whatever may be done therefore to improve and strengthen the type of legal education which is being developed, it ought to be steadily borne in mind that there can be no substitute for exacting standards of scholarly performance on the part of its students and inspiring and devoted service on the part of its teachers and that ultimately the reputation and public service of our schools of law will depend more on these factors than on any others or all others combined.

There are in fact two very distinct

problems of legal education in America, neither of which has any very close relationship to the other, which must continue to invite our attention. The first and more important problem, one often alluded to in these reports, has grown out of the development in the United States of two distinct types of law school. One type is represented by a relatively small group of university law schools having high entrance requirements and exacting educational standards; the remaining 120 or more schools constitute a distinct class with low admission requirements, low educational standards and on the whole low professional ideals. Most of them give their courses at night or on a part time basis, their students' principal time and energies being devoted to activities other than the study or practice of law. The very existence of these schools is made possible (a) by our traditional policy of low bar admission requirements which are less exacting than the standards of admission to other professions and (b) by the fact that, by providing instruction largely or wholly by part-time instructors and with inadequate libraries and equipment, it has been possible to maintain such schools on a financially profitable basis.

This second group of schools has created the problem with which the American Bar Association has sought to deal in its campaign for raising bar admission standards by requiring that all candidates for the bar must have pursued a minimum period of liberal and professional study greater than that now required by the majority of law schools and requiring the schools themselves to be adequately equipped with teaching staff and library.

The problem raised by these schools can ultimately be solved only by insistence on what I have characterized as the old-fashioned virtues of thoroughness and fidelity to the task of training men for membership in the bar and fitting them to perform the functions of a difficult and exacting profession.

That the bar has taken upon itself the reform of this phase of legal education is a hopeful sign of the times and that

it has set its hand to the task in the right and only way to accomplish it is, I believe, not open to serious question.

The other important problem of legal education is suggested by the history and development of those schools which I have included in the first class. No one looking fairly and intelligently at the work of these schools can maintain that their problem arises from their methods of instruction or from any want of zeal for scholarship, or thoroughness or devotion to the educational enterprise. In all these respects they have set an example which might well be emulated by educational institutions of other types, and in all of them they have gained an educational leadership which they must under no circumstances relinquish by subordinating these fundamental things to the fads and fancies of an educational opportunism.

Present day problems of legal education, for schools of this type, arise, rather, from our traditional attitude toward the law as a body of technical doctrine more or less detached from those social forces which it regulates. We have failed to recognize as clearly as we might that law is nothing more than a form of social control intimately related to those social functions which are the subject matter of economics and the social sciences generally.

Twenty years or more ago this failure was most apparent in law school teaching for the very obvious reason that the common law itself is technically more highly developed than any other system of law and the law teacher not unnaturally directed his energies principally toward the exposition of its more technical aspects.

In the last fifty years, too, the law has expanded enormously both in the field it covers and in its content. It is not surprising therefore that lawyers and teachers of law in the effort to master the intricacies of the common law should have become absorbed in its technique to such an extent that they have to some degree lost sight of its true relationship to what I have referred to as social functions, and have come too much to regard it as a body of learning quite distinct and

apart from those social forces which create it, much as the scientist regards the body of natural law which he studies and investigates as something apart from social organization and development. In recent years there has come a clearer understanding of this relationship and a noticeable tendency on the part of the most successful and distinguished teachers of law to direct attention more and more to those causal elements in legal science which are the more fundamental in the development of technical doctrine, instead of dissipating their energies in the vain attempt to cover, in the brief period of law school training, the entire technique of their subjects.

This change of attitude has not, however, up to the present time produced any noticeable effect upon the organization of law school work. For more than thirty years the only substantial change in law school curricula has been the addition from time to time of new courses to cover some new field into which law has expanded with the growing complexity of modern business and economic life.

Starting with the fundamental courses in Contracts, Torts, Property and Equity, we have added courses in Insurance Law, Public Service Companies, Unfair Competition, Restrictions on Trade, Industrial Relations, Bankruptcy, Statutes, Damages, to mention only a few of the many new courses which adorn modern law school curricula, and withal every instructor continuously and persistently presses for an increase in the time allotted to his subject in order that he may treat adequately its ever expanding technique. This is the process which has steadily been going on until at last we are beginning to realize that the logical outcome of it must be that ultimately students who come to us to be trained as lawyers must remain with us for most of their natural lives in order to be trained properly to begin the practice of their profession.

The only solutions that have been proposed are mere mechanical solutions. Some courses of lesser importance, it is suggested, may be taken superficially; overlapping of courses must be definitely

located and eliminated; the law school course must be increased from three to four years, notwithstanding the fact that the changes in our law which require a four years course will by the same logic ultimately require a five or six or ten year course. There can be no mechanical solution for a problem which is created by the endeavor to force a continually increasing volume into a fixed space and we are being brought to the realization that we must seek other methods to adapt the law school course to the growing technique of the law.

Instead of dissipating our energies in the vain attempt to master in the brief period of three years the vast and growing mass of technical learning of our profession as an independent and detached system, we must seek a simplification of educational methods by coming closer to those energizing forces which are producing the technical doctrine of the law. We may hope to do this by reaching a clearer and more accurate understanding of the relation of law to those social functions which it endeavors to control and by studying its rules and doctrines as tools or devices created and placed in the hands of the lawyer as means of effecting that control.

That is, I think, the heart of our problem and it naturally divides itself into two subsidiary problems. The first is the problem of so re-arranging and organizing the subjects of law school study as to make more apparent the relationship of the various technical devices of the law to the particular social or economic function with which they are concerned, so as to present them in their true perspective with respect to the social enterprise and at the same time save the dissipation of energy and effort which goes on when not perceiving that relationship, we treat various technical doctrines related to the same social or economic function in widely separated and apparently unrelated parts of our curriculum.

The legal concepts of property and contracts are familiar devices for effecting social control. The first year student very properly begins his law study

with a consideration of these subjects and of torts which deals with the legal control of acts which affect either persons or things, accompanied by an introductory study of pleading and procedure. Later his notions of the range of control of human action through the contract and property concepts is expanded by study of the doctrines of equity. In general most other courses in law school deal with various phases of the application of these concepts to particular social or economic functions but without any attempt at classification of the function involved or at bringing together in single courses the various devices applicable to a particular function.

For example, the undertaking of a lawyer to secure satisfaction of a judgment in favor of his client presents itself to him as a single problem to be solved by resort to a variety of legal devices, the particular device to be selected depending on the particular circumstances of the case.

But how does the law school deal with the problem? It treats of execution and levy in a course on procedure; of creditors' bills and equitable execution in courses on equity; so also of equity receiverships, whereas proceedings supplementary to judgment and receiverships in such proceedings are usually dealt with in practice courses. Assignments for the benefit of creditors, if dealt with at all, are likely to be dealt with in the course on trusts, whereas the subject of bankruptcy and the rights of creditors in bankruptcy proceedings are usually dealt with in a separate course.

In the same way in text-books and law school curricula it is customary to treat independently the law of pledge, of mortgage, of conditional sales and suretyship as well as such specialized forms of security as indorsed bills of lading, warehouse receipts, trust receipts, equipment trusts and the various modern devices for the financing of marketing operations which have had a rapid development in recent years.

These various subjects are distinct branches of technical law, often having different origins and history, nevertheless they exist and have practical utility

solely to make effective a single important business function, namely, ensuring to the creditor a hold upon a particular piece of property or the obligation of a surety, in addition to the personal obligation of the debtor, as security for the payment of his debt. All this is indeed but a phase of the business man's problem of administering his credit risks if he is a creditor and his problem of administering his credit resources if he is a debtor.

Many other examples might be given of our tendency to make isolated studies of various legal devices without reference to the more significant social functions which they serve, but these will suffice if they make it apparent that there is not only a waste of time and effort in dealing with separate legal devices having a similar use, at different times and in different courses, but there is a loss of educational opportunity in the failure to make a comparative study of them in the light and with clear understanding of the economic function which is being facilitated or controlled.

It is quite possible that, if for example, we brought into a single course a consideration of all the devices to which the creditor may resort to ensure payment of his judgment or if we brought into another, a study of all the devices by which the creditor might obtain security for the payment of his debt, the central idea in each being a consideration of the various legal methods by which law controls and effectuates the social function concerned, we would go far toward finding a solution of the difficulties in which the present day law school curriculum is involved.

There would certainly be some saving of time and energy and a more adequate and satisfactory treatment of the subjects concerned, than is possible with the present arrangement. What is more important, this proposal suggests the possibility of a reorganization of the law school curriculum with reference to the social and economic functions with which law deals in something more than a mere mechanical way and holds out the hope that it will be possible to continue the work of professional law schools with-

out the continual multiplication of courses, which have characterized their curricula for the past twenty years.

With this purpose in mind we have been engaged during the past year in making an extensive analysis and survey of all the courses offered in the law school. Each instructor has prepared a complete descriptive memorandum of his course, giving in detail the subjects discussed and the method of treatment. These memoranda have been referred to a special committee of the faculty for analysis and classification and with the report of this committee we should be possessed of the data on the basis of which a really scientific revision of the curriculum may be begun.

The successful carrying out of such a plan is a matter of years rather than of months, not only because of the necessary studies which must be carried on and adjustments made, but because it ultimately will require the preparation of new case books in which the material will be selected with reference to the functional approach to the study of legal devices.

The second part of the problem affecting what I may call the more scholarly type of law schools is related to the training in social sciences which students have received before they begin their study of law. It is, I think, quite obvious that if law is a study of a method of social and economic control, then the student in order to be adequately prepared for its study ought, not only to have good mental discipline, but he ought to have a thorough-going knowledge of the social functions with which the law deals. While the undergraduate departments of colleges and universities are offering a great variety of courses in economics and the so-called social sciences, few of them indicate that any effort is made at any systematic approach to the problem from this viewpoint.

It is rare to find among the students of entering classes in the law school, who are graduates of colleges and universities, any well developed knowledge of our social structure and how it functions. Their economic training is too often based on a priori assumptions and

a kind of closet philosophizing which unfits them to deal objectively with the type of economic problem with which he must deal in law school and later on as a lawyer. Where his training has been objective it seems too often to have been concerned with the description of the minutiae of more or less unrelated phases of social development without dealing with fundamentals. Too often he knows little or nothing of economic functions of property, contract, commerce, credit, of distribution and of money and banking.

There is important work to be done by those responsible for the development of undergraduate studies in America in the preparation of courses of study in

economics and social science organized along the lines here suggested. Such a program of study, properly organized and once established, would add greatly to the value of training in those fields for the liberally educated man, whatever life-work he may take up, and would be far more valuable than the present type of training to the student planning to take graduate courses in law or business. Such a readjustment with respect to the method and objective of the study of social sciences should give a new trend to training in that field which would strengthen liberal education and prove of inestimable benefit in carrying on the work of law schools.

A Gap in Law School Training and a Way to Bridge It

By ALBERT KOCOUREK

Professor of Law, Northwestern University

[In this article the writer proposes a new course for the law school curriculum, based on the Advance Sheets of decisions.—Ed.]

THESE are roughly three kinds of courses offered in the law school: (1) The so-called basic or fundamental courses—torts, contracts, chattels, land, agency, crimes, equity, pleading, etc.; (2) the specialty courses—carriers, labor, public service, admiralty, mining, irrigation, patents, etc., insurance, workmen's compensation, federal taxation, etc.; (3) the so-called cultural courses—history, biography, criminology, comparative law, Roman law, jurisprudence, legal philosophy, etc.

The basic courses are under little pressure toward expansion, although there are tendencies to institute special cross-division subjects, such as legal liability, estoppel, and fraud. The specialty courses chiefly are being increased in number, and the cultural subjects are also getting a more prominent representation.

It is not possible within a law school period of three or four years to embrace all of the 450 titles of the encyclopædia publisher, nor is it possible to cover more than a fractional part of the ground of the 80 or more subjects scheduled in law schools. There always will be large gaps in the informational content of the law school course. There need not, however, be any gaps in the juristic groundwork of the law, but much remains to be thought out and to be done to achieve the possible in that direction.

Since the courses of the law school are tending toward numerical expansion, it is no longer possible for the student in a school which offers a liberal schedule of specialty and cultural subjects to go through the whole curriculum in his undergraduate years. It is not contended that the law student should be trained in all the subjects of law, past and pres-

ent, but it is believed that each student in the law school at the moment of graduation should have an easy familiarity with all or a substantial part of the fields which, in his own day, are subjects of current litigation. This knowledge cannot be gotten from the casebooks in use. There is only one way to get it—by reading current cases. We shall at once proceed to the solution. It is this: Let there be offered in the last year of the law school a course in current litigation. The materials for such a course are at hand in the advance numbers of the National Reporter System.

The schools within the states represented by the Northeastern Reporter, for example, will have a choice of three reporters—the United States Supreme Court Reporter, the Federal Reporter, and the Northeastern Reporter. The other schools may substitute for the Northeastern Reporter either the reporter embracing the state in question or the official reporter of the state where advance sheets are available.

I.

The first question to be answered is, What reporter shall be used? If only one series is to be used, the writer would urge the selection of the Federal Reporter for the following reasons:

(a) The Federal Supreme Court cases are easily managed in the course on Constitutional Law; there is no gap there.

(b) The local (state) current decisions are also no doubt often brought to the student's notice in the various law school courses; but there are often serious gaps here, and the only wholly satisfactory solution is to include a course in current local (state) decisions.

(c) The Federal Reporter, covering nine circuits, offers a great abundance of case material, permitting, if thought desirable, a selection of cases.

(d) The Federal Reporter regularly covers a greater breadth of topics of special law (admiralty, bankruptcy, copyright, carriers, insurance, trade regulation, mining, patents, taxation, trademarks, treaties, etc.) than any other single reporter. It affords precisely the

sort of legal material to bridge the gap for each student.

(e) The Federal Reporter is a record of the general commercial law of the United States. This is an actual body of law (unlike the theoretical generalized law of the casebooks), which can no longer be ignored in this age of rapid communication.

Perhaps other substantial reasons for the choice can be advanced. One objection which might be raised is that many of the decisions are interlocutory and by judges of the District Court. Interlocutory decisions are just as valuable as final decisions, and the fact that they are available is a supporting argument. If it may be supposed that the decision of a District Court judge is unworthy of study (and we do not share this view), it may be answered that there is a great abundance of decisions by the Circuit Court of Appeals.

II.

At this point we may survey together some of the advantages and disadvantages in the use of current cases.

1. It will require an addition to an already crowded program. If the course is required, something else must give way. If it is not required, it increases the competition in electives. The latter situation of the two, we believe, is to be preferred. There can be no harm in increasing competition among elective subjects; none, at least, from the student's standpoint.

2. Such a course will tend to ease the pressure to elect a large number of special subjects for their informational value. When the student knows that he will be able to get actual working knowledge of a large variety of special fields of law in one course, he will be less likely to feel the need of crowding his schedule of hours, because he does not want to omit important subjects offered to him. All this should react in favor of the standard of work done.

Incidentally, the plan may save the law school from being swamped entirely by specialties. It will not be long before the "blue sky" and bulk sales laws,

among others, will be on the teaching schedule. Several of their first cousins already have arrived. There is a tradition that all taught law must be by way of cases. The student will not be trusted to read a summary text statement of any field of law. If, for example, he wants to know the operations of the bankruptcy act, he must plow through a large casebook.

There is no need to quarrel with this Spartan rigor, since our students do not have available the repertoriums which flourish on the continent. The large professional treatise is out of the question. It is "aut casebook aut nullus." Art is long for the student.

3. It may be urged that such a course will be lacking in scientific merit and will be only a hodge-podge of miscellanies. If science means the long and tortuous course of decisions from the Year Books up, the point must be admitted. It also must be acknowledged that such a course will be made up of miscellanies. The clear answer that must be made is that such a course is given primarily for its *informational* value.

This also flies in the face of a formula that law school training is for the purpose of creating a legal mind, or for developing the power of legal thinking. While this is not the occasion to pursue the formula to its concrete embodiment, it may be remarked that a legal mind that thinks with nothing to think about is at least difficult of apprehension.

A law school does not debase its mission by providing its students with sound information, where that information can be seen to be practically useful. It is impossible to provide useful information about fifty separate jurisdictions, but it is quite possible to deal from an informational point of view with one jurisdiction.

The fact that such a course necessarily will consist of miscellanies may not, after all, be an objection. Toward the end of a law school course, the student should be prepared to shift rapidly from one topic to another. Moreover, this process is a fairly accurate reflection of the work of a general practitioner.

er. His cases do not come to him in classified groups.

While miscellanies as such are not objectionable, yet if, because they are miscellanies, they lead to mere superficiality, this may be thought to be a serious consideration. If, for example, the pupil has not already studied bankruptcy as a whole, will he get any useful training or information from a course in current law which introduces him, perhaps, to a dozen or more recent bankruptcy cases? Here lies the most substantial point of objection that can be advanced against the novelty proposed. If one emphasizes the thoroughness of background and detail of rules and theories which dominate the regular law school courses, there is only one answer, and it is destructive. A course in current law will not meet the test. There is then no escape, except to take the position that the test is not applicable.

It may be urged, we believe without any weakening of standards of scholarship, that not everything that is encountered in a law school or elsewhere demands exhaustive manipulation. Neither life as a whole nor the law school as a whole functions upon a basis of absolute certitude and ultimateness. Like books, some topics of legal knowledge "are to be tasted, others to be swallowed, and some few to be chewed and digested." Let it frankly be acknowledged that a study of current cases probably will mean a superficial contact with many things; but let it also be recognized that in that superficial contact such a course accomplishes its purpose and satisfies a need. The proper test then is: Will such a course give the student something of value to him in information or training as a basis for a professional career, not to be supplied otherwise at less cost of time and effort?

4. It may be said that few, if any, law teachers will be found competent to teach a course varying from Admiralty to Water Rights. If the teacher is interested in the course, we regard it as immaterial that he knows much or little about the particular field of law which may be in question. The case

itself will furnish informational values, even though the teacher is unable to contribute anything of his own. Teaching skill is all that is needed, but it will be rare that an experienced teacher cannot add something to the understanding of a case, even when it lies wholly outside the scope of his special field. If this objection should be regarded as a serious one in any quarter, it might in various ways, not necessary here to discuss, be overcome.

5. The fact that the cases are current cases should be emphasized. They are the nearest approach to actual law. The average date line of the cases in the casebooks probably will fall back more than fifty years. It may be an exaggeration of the picture to say that it is like studying the locomotive from models in use in the 1830's, but it is only at worst an exaggeration, and the present tendency of casebook construction is along analytical lines, based on modern cases, leaving matters of history to summary statements.

6. Such a course, while primarily informational in purpose, may often be of great analytical value. Current cases often will be found which for analytical value will be better material than similar cases in the casebooks. It may be expected that the most will be made of such instances.

7. The review value of such a course is not negligible. Students looking forward to final law school and to the bar examination will find in it a valuable refresher of scattered ideas, since in a given period (one semester or two semesters) nearly all the important fields of law will be represented in reported current decisions.

8. The student will get an accurate picture of the fields of legal controversy, connecting his historical and analytical studies with his approaching professional career. He is not pushed into the profession with a background that does not go forward of the Meeson & Welsby period, but gets a sense of the realities with which he must deal. He will have, not only an equipment drawn out of the past, but a contract with living law, administered by living judges, to living

litigants, represented by living counsel.

9. The fact that the course is one dealing with living law will no doubt produce its effects in the classroom in a spontaneous interest, which will do much to take the place of an instructor's apparatus. It is well known that the instructor's apparatus in a few years becomes glossed to such an extent as to present a serious problem, at least for the instructor. Nothing is more discouraging than to find, when approaching a favorite case, that the instructor's dialectic already has been discounted. It is a novelty only to the indolent and incompetent. Such embarrassments will not be met in a course of living law. The legal surgeon does not operate on a cadaver drawn from the pickling vats of another generation, but cuts into living flesh. The difference between an old case and a new one amounts to more than a division of time.

10. In an enumeration, it seems worth emphasizing that a course in current law based on federal decisions deals with a great body of actual law in many respects different in scope and departing in rule and method from state law. The bulk of the practical part of the law curriculum is devoted to local law, and the student gets only a suggestion of the general commercial law of the United States. Casebook law as generalized by the instructor is a nonexistent. It is a phantom. It may be a kind of "richtiges Recht," which some courts may be persuaded to adopt, but it cannot be cited as having the force of authoritative precedent. We do not depreciate this body of juristic reason. On the contrary, we believe in the course of time it will find more and more persuasion. But it stands in sharp contrast to an actual body of law, such as that administered in commercial matters in the courts of the United States.

It is quite impossible for the national law schools to treat the law of the various states in any other way than they do. The multiplicity of jurisdictions is an insuperable bar, but we believe, nevertheless, that neglect of the general federal law is a serious omission. In this connection it may be remarked as

one of the marvels of the age that, in spite of the energy spent in tracking out every species of legal doctrine, and in compiling texts and writing treatises, no one, it would seem, has ever thought of making a systematic statement of this body of law. The course in federal cases will at least give a point of contact with it. This, of course, is not to deny the fact of conflict in federal decisions and the difficulties that go with such conflict. It still remains true that the federal law in many respects, apart from federal legislation, is a distinct body of law. It is also interesting to observe in it a distinct tendency toward a natural law flexibility, in contrast with the more hesitant, historically concatenated, spirit of adjudication of the state courts.

Among the minor advantages of a course in current law, the student will be initiated into the habit of reading the advance sheets, a habit of the greatest value in a successful professional career, and he will also perhaps develop an interest in the case comments of the several excellent law reviews which are regularly reviewing important current cases. It would be an advantage if the

course in current cases could be made to synchronize with the law review case comments. It would also be desirable if the law reviews took more notice than is now customary of the Federal Reporter cases. They are too much put aside as a foreign body of law, in the face of the fact that the litigation in the District Courts of the United States on the whole probably preponderates in the importance of the interests involved, in general level of eminence of the counsel engaged in it, in the skill displayed in trial and appellate practice, and in the personnel of the courts, over the general average of the same or comparable litigation in the state courts.

Any innovation in the teaching schedule probably carries with it some disadvantages from the mere fact of disturbance of an equilibrium; but making due allowance for this factor and such concession as may be necessary to the pedagogical lack of conformity to the rigorous specialism which dominates the conduct of law courses, we have no hesitation in believing that the good of the proposal outweighs the evil. That is the ultimate test. An experiment with it, at least, would not be fatal.

The Measurement of Law School Work

By BEN D. WOOD

Assistant to the Dean of Columbia College, Columbia University

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FOREWORD BY DEAN STONE

By the award of the law degree, the University certifies that the recipient has spent the requisite time as a resident student in the University and that he has maintained a certain standard of scholarly accomplishment, upon which the University sets its seal of approval, as qualifying him to begin the practice of his profession. This practice of certifying to the attainment of its graduates by the award of a degree, places upon the University and more specifically upon the Faculty of Law, the positive duty of weighing and measuring, in some fashion, the

accomplishment of its students. This is a duty which must be performed with respect to what may fairly be deemed one the least ponderable of intellectual sciences if the work of its students be carried beyond the mere memorization of statutes and judicial decisions.

That this duty has been performed by the faculties of our better law schools, with conscientious fidelity to the task no one acquainted with the facts can doubt. Nor can there be any doubt but that one familiar with the examination methods of individual instructors on the staff of the Columbia Law

School could, on referring to the records of her students, form an approximately correct estimate of the character of their work and attainment. Nevertheless, law teachers would be the first to admit the unsatisfactory and unscientific character of the law examination as a measure of the student's attainment and capacity. They have followed the traditional method of examination based upon hypothetical cases, discussed by the essay type of answer, because they have believed, upon a priori grounds, that no better method could be devised, even though the present method be only a crude approximation to anything like an ideal.

That this method of examination is laborious and extremely burdensome in the larger law schools, encroaching on the time and energy which instructors would gladly devote to research and publication, has been equally well understood in the law schools, although perhaps not so well appreciated in other parts of the Universities.

When I reflect that in the past dozen years I have devoted at least a solid year of working time, probably much more, to the painstaking reading of the thousands of examination books which have come to my desk in that period, I have reason to realize the sacrifice which law teachers are making to maintain the existing standards of measurement of law school work.

For some years the psychologists in the University have insisted that better methods of examination could be devised, methods which would not only measure attainment and capacity more accurately than the traditional examination methods, but would lighten materially the law teachers' heavy burden of reading the essay type of examination papers. Of the validity of this claim we have been frankly skeptical, but our skepticism has not been carried to the point of doubting the wisdom of intelligently directed scientific experiment. Accordingly, in the spring of 1923, the Faculty of Law invited Professor Wood to make a study of law school examination methods, and to try out, in an experimental way, such changed methods of examination as the experience of the psychologists might suggest. The report of his investigation is here presented. In the course of its preparation, Professor Wood made an exhaustive study of law school records over a period of six years. He regularly attended law school courses for a term in order that he might be adequately informed about the methods of instruction and the nature of the subject matter of law study. He examined many of the essay type of examination papers in regular use in the law school and, in collaboration with three members of the Faculty, prepared examinations of the psychological type in their respective subjects, which were given to large classes during the spring examination of 1923.

Professor Wood would be the last to impute finality to most of the conclusions sug-

gested by this experimental study, as he would certainly be the first to caution us against hasty or over-positive inferences from the data which he has collected. It cannot be urged, of course, that any method of examining will eliminate wholly the subjective and uncertain elements of law examinations. The infinite adaption of legal doctrine to the exigencies of fact to which it applies can never be stated with complete and final agreement of even like minds. Consequently there can never be a precise or uniform standard of measurement or an unvarying certainty in its application. On the other hand, Professor Wood has proceeded far enough with his studies to make it reasonably clear that the results of the traditional type of examination are more variable and uncertain than most of us had suspected and that the variations and uncertainties may be materially reduced by the use to some extent at least of a new type of examination.

Of the greatest practical importance is the indication that by the use of the new type of examination, the student's knowledge may be tested more extensively, in a given time, than by the old, and that the burden of the instructor in reading and grading papers may be materially lightened. By the exercise of some ingenuity in the preparation of the examination paper, too, the instructor may test, more than might be supposed, the ability of the student to "see the point involved" in a problem without suggesting it to him, although in this respect the new type of examination will probably be found to be inferior to the old. Nor can the new type be used very successfully to deal with legal problems where the authorities are conflicting or where there is no authority and the process of reasoning, by which a result is reached, must be the real test of the value of the student's conclusions. By the exclusive use of this type of examination, the capacity of the student to state, in good literary form, his discussion of legal problems, an important element in legal training, cannot be tested, nor will the instructor receive as completely the benefit of those incidental advantages which come from the use of the old type of examination in revealing to him the efficiency and success of his own work as it is reflected in the essay type of answer.

These considerations may well lead to the conclusion that we can never dispense wholly with the essay type of examination, however much we may resort to the new type in order to enlarge the field of subject matter to be tested by the examination and to lighten the burdens of the examiner.

But Professor Wood will have done an exceedingly useful piece of work by this and further studies which he purposes if he shall succeed in convincing the law teaching fraternity that the two types of examination may be judiciously combined without detriment to the educational work of the law schools.

In the meantime, neither the Faculty of Law nor the Review expresses any opinion with respect to Professor Wood's report except that his undertaking is conceived and carried forward in the scientific spirit, and the problem itself, as well as his treatment of it, is worthy of serious study.

THE MEASUREMENT OF LAW SCHOOL WORK

THE purposes of this study may be conveniently summarized under the following five heads:

I. To describe the present method of deriving grades.

II. To analyze the present bases of grading.

III. To find whether there has been applied to students any uniform standard of excellence, and, if so, what; or, in the absence of any uniform standard, what tendencies have obtained.

IV. To find the relationships between grades in different courses, and to estimate the reliability of Law grades, in single courses, in groups of courses, and in average year grades.

V. To lay a basis, if possible, for establishing a system of grading which shall possess to a greater extent than the existing system the essential requisites of sound measurement, viz.:

1. A defined and stable point of reference.
2. A defined and stable unit of measurement.
3. Significance and reliability.
4. Objectivity.
5. Administrative practicability.

I. THE METHOD OF DERIVING GRADES IN THE LAW SCHOOL OF COLUMBIA UNIVERSITY

1. In general, the method of deriving grades is characterized by extreme subjectivity. While there is an external unity of method in some respects, there are few well-established conventions and no set rules laid down by the faculty and required of the various professors. It is a subjective and individualistic system in which each officer of instruction is held responsible for the duty of judging the merits of his students without being materially hampered by rules and regulations imposed from above. A final written examination is the most

notable well-established convention; but, while this routine is rarely if ever departed from, it would be hasty and unwarranted to assume that there follows any great uniformity in the actual deriving of grades in the various courses given each year.

2. The character of the examinations is left entirely to the individual professor. Each teacher decides on the number, kind and difficulty of the questions that go into his examination, and each teacher follows his own individual judgment in scoring and weighting the questions. In the great majority of courses, the professors adhere to the "case method" or "problem" question; other forms of questions being rarely used by some professors and never by others. The number of questions in each examination averages about seven, and ranges from four to ten or twelve. In some examinations complete answers can easily be written within the time limit; in others, according to many students, a whole day would tax a good stenographer. In rare instances, students spend the whole examination period on one or two or three of the questions, thus presenting a situation which imperatively requires the instructor to estimate merit on a basis different from that used with the other students, involving various new and complex assumptions which each officer must derive and handle in his own way. The validity of whatever assumptions the instructor acts upon is made questionable by various considerations, most prominently by the problem of sampling.¹

3. The great variety in the sizes of the classes imposes variable bases of judgment from which the present system offers no possible escape. The classes vary in size from ten to over two hundred. In the small classes, the instructor becomes acquainted intimately with each student, and can hear each student recite at least once or twice each time the class meets. Teachers of such classes tend to shift their standards of achievement according to the average

¹ For a discussion of sampling in tests, see Wood, *Measurement in Higher Education* (1928), cf. esp. Chapters VII and VIII.

ability of the students in their classes. In the classes of over one hundred students, it is frankly impossible for the instructor to know more than a very small fraction of his following well enough even to call their names. Some students never recite in the classes of over two hundred, and only the small minority of outstanding personalities who volunteer to enter into the class discussions recite frequently enough to make any retainable impression on the minds of the instructors. The result is that nowhere in the educational world, except perhaps in other law schools, is there a more unmitigated dependence upon the traditional three-hour written examination given at the end of the course, for only one written examination of any sort is given in any of the Columbia University Law School courses. Some law professors have had doubts of the adequacy of such a procedure, but the enormous labor of reading such examinations has discouraged any increase in their number.

Recent investigations of the reliability of the traditional prose examination in other subject matters indicate that the doubts of these professors of law are not misplaced. In fact, the evidence is so strong that we may almost say with finality that the traditional prose examination, singlehanded and alone, is inadequate for the requirements of modern educational administration. To many professors, to some even who have not been influenced by the large masses of evidence against the traditional subjectively scored examinations, the spectacle of a student trying to record an adequate sampling of his gains from a four-hour course of several months' duration in the English prose which he can produce in three hours under the conditions and circumstances of college examination week, and the correlative spectacle of the college professor passing judgment on that student on the sole basis of the product of those three hours of writing, seem, on a priori grounds alone, quite incompatible with current ideals of educational measurement and administration.

4. Further facts regarding the method

of deriving grades may be gleaned from the following material secured through a questionnaire submitted to the members of the Law Faculty of Columbia University.

RESPONSES OF FACULTY MEMBERS TO QUESTIONNAIRE²

I. Have you altered your standards of grading in any respect during the period 1916-1923?

(1) So far as I recall, the only conscious change of standards has been to raise the numerical value of the D grade from 50 to 55. Doubtless there has been some unconscious change of standard. I think, with experience, I have gained facility in judging the value of papers, and have, I think, become a little more exacting in applying numerical standards.

(2) Not consciously.

(3) I am not conscious of altering my standard of grading since 1917. Perhaps, the first year I taught, I may have been a little more liberal than in recent years. The variations are due more to the varying number of students, the quality of students, and the varying difficulty of the examination problems given in different years, than to a change in my standard of grading.

(4) No. (Have been at Columbia only one year.)

(5) I am not aware of having altered my standards of grading.

(6) No.

(7) No.

II. Have your final grades depended mainly upon the final written examination?

(1) Yes; although in the case of a man whose marks were right on the border line, I have given him the benefit of his classroom work and regular attendance.

(2) Mainly; but less so in summer sessions, because of smallness of classes.

(3) My final grades have depended almost wholly upon the final written examination.

(4) Yes; almost exclusively.

(5) Entirely.

(6) Not mainly, but entirely.

(7) Yes.

III. Where final mark has depended mainly or wholly upon final written examination, what has been your passing mark in per cent.?

(1) Anything below 50% is failure. Formerly 50, 51, 52, were D, now 50-55 is the range for D grades.

(2) 60% earned a C.

(3) 60%.

(4) 55-60%.

(5) Within a point or two of 60%.

(6) I do not give numerical grades.

(7) 50% gives D and 60% gives a C.

IV. What per cents. on the final examination do the letter grades represent?

	A	B	C	D	F
(1)	80-100	70-79	55-69	50-55	50-below
(2) (3) and (5).....	80-100	70-79	60-69	50-59	0-49
(4)	80-100	70-79	55-70	50-57	0-49
(6)	I do not give numerical grades.				
(7)	90-100	75-90	60-75	50-60	0-50

² The numbers of the questions on the questionnaire are indicated by Roman numerals; the seven professors who answered, by Arabic numbers.

V. Describe in as much detail as practicable your method of making up examinations, selecting questions, weighting questions, and technique of scoring.

(1) My questions are almost invariably problem questions, not exactly like any case which has ever arisen within my knowledge. I try to devise each problem so that it involves at least three or more legal questions; the first of the type that any lawyer well grounded in his subject should know, a second somewhat more difficult, and the third testing his reasoning powers and discrimination upon some entirely new question. An intelligent and capable answer of the more difficult questions is what places the student in the A class. Failure to recognize and deal with the more obvious one involves him in a failure.

(2) I try to have each question involve two or more points covered by the course. The questions are frequently cases which have been recently reported in the advance sheets, modified or combined so as to require careful analysis to see the crucial considerations. On some examinations I have given one very complex question involving eight or ten different matters and have directed the men to devote one hour to such question. This more nearly approximates the sort of case actually met in a practitioner's office. In scoring a paper I usually give a 60 to any man who sees the crucial points involved, whether he knows the rule of law actually adopted on that point or not.

(3) I generally give eight questions on an examination. I endeavor to raise problems discussed at different times during the course and also examine the students on the different topics included in the course. Of course, with only eight problems, a very considerable portion of the subject matter is necessarily not touched upon in the examination. The problems generally involve from six to ten points to each problem. Frequently one problem will involve several different topics. In grading the question, I take into consideration the difficulty of the problem; the student's analysis of the problem, the way in which he approaches the problem, the quality of the student's reasons in support of his conclusions, and the student's knowledge or ignorance of material considered in the course. I generally value each question the same, but I do not value each point, where several points are involved in one question, the same. I grade each question separately, and then add the numerical grades on the total number of questions and divide the total by the number of questions, thus arriving at an average grade for the paper.

(4) I go over my cases and notes and select points to be embodied, trying to get fair proportion of ordinary or easy points and unusual or obscure points, and a fair distribution among topics with reference to the time allotted to each in the class work; frame hypothetical questions to bring out these points to a man who has thoroughly grasped the doctrines of the cases, yet so obscure that a man who has memorized by rote his own or some one else's lecture notes will never see the point at all. A majority of my failures are due to the student's failure to see the points involved in my questions. That, judging from my experience as a practitioner, is the way in which good cases are most commonly lost in practice. I occasionally give one (only) question such as: "Give the history of Ejectment." This only in courses emphasizing history. I give seven questions; sometimes there are several parts (up to five) based on the same statement of facts. I usually try to devise these so that an answer to one must be consistent with the answer to one or more of the others. Each of the seven questions counts equally in scoring, whether it be regarded (by me) as easy or hard. I do attach

different weights to different points. Answering incorrectly on an easy point always means a grading below 60 on that question or part of question; other points are "honor" points, which only the A men are expected to answer. I grade off most for missing the point, next for answering it wrong, and least for adding irrelevant matter to a correct answer; but it is hard to state a rule, as I take into account the intelligence with which the problem is approached in general. I grade each question separately, $11\frac{1}{2}$ being A, 10 B, etc. I rarely give more than $13\frac{1}{2}$ by halves. I add up the total and have the numerical grade, which I translate into the letter grade on the scale above explained, with this exception: I always read over again all papers below 60, and those falling 58-60 I consider carefully until I feel able to place them either above or below this sequence. This is what I mean when I say above that I fix my passing mark (C) at 58-60. I start out with 60 as the mark and try to eliminate the marginal error, between 58 and 60. In so doing I usually consider the student's class recitation record and his absences, if any. I uniformly call $49\frac{1}{2}$, 50, $59\frac{1}{2}$, 60, etc. I usually re-read the A papers, to see if there are any bad misses, as I do not like to give a man A if he has made any.

(5) I try to frame my questions so that they will contain from three to six points. Questions are intentionally made to vary substantially in difficulty. I have thought the student's ability to detect that difference some indication of how to classify him. I usually give seven or eight questions, and I purposely include a question or two never discussed in class, concerning the answers to which I myself am often very much in doubt. I do not always assign the same numerical value to each question. As I read each answer I try to determine whether or not it is Excellent, Good, Fair or Average (merely Passable), or Hopeless. Thus I fix a numerical grade to each answer, the final grade being the numerical average of all the grades.

(6) Selecting questions: I have two practices. One is to take my cases out of the recent reports; the other is to select questions from those which have been given in other schools. I should say I follow one practice about half the time and the other the other half. Which I follow depends for the most part on my convenience at the time. I prefer questions which I do not make up myself. It is more difficult to judge my questions objectively. Weighting questions: I treat each as having the same value as the others. Technique of scoring: I read the whole book, and if the answers are as good or better than those I could write, I give the book an "A." If the book shows a good grasp of the subject, I give it a "B." If the book leaves me in doubt as to how good a grasp of the subject the man has, I give it a "C." If the book shows no grasp, I give it an "F." If there will be too many "F's," I give the higher rank of "E's" "D's."

(7) My questions involve some general rule or principle of law which has been discussed in the classroom in connection with actual decisions. My questions do not give the facts of decided cases, but imaginary facts, so that there is no opportunity for the student to answer according to his recollection of decided cases.

II. THE BASIS OF GRADING IN THE COLUMBIA LAW SCHOOL

The stated basis of grading in the Law School is in harmony with the sound theory that a grade in a law course should be a measure of effective ability to reason and think in the mate-

rials of that course. There is a strong insistence that the student's thinking be firmly rooted in a full knowledge of the relevant facts. Neither in theory nor in practice, so far as the writer has been able to learn, is any recognition given in the Columbia University Law School to the false doctrine of a general separation of "reasoning power" and "*mere* knowledge of facts." There is a salubrious absence both of that fetishism of the ill-defined abstraction "reasoning ability" and of that unwarranted contempt for "mere knowledge" or "mere facts" which has in recent times marred the public utterances of some able and distinguished teachers. In the practical work of grading examinations it is clearly recognized that real thinking cannot occur in the absence of facts appropriate to the problem, and further that the mere acquisition and retention of facts is presumptive evidence in favor of thinking and organizing power. This practice is in thorough accord with the known psychology of retention;³ retention of large masses of factual knowledge depends quite as much on thinking and organizing ability as thinking depends on facts to think with.

A sound theory of the basis of grading does not, of itself, however, produce reliable measures of achievement. The reliability of the grades depends quite as much on what manifestations of the theoretical basis are accepted as adequate and on the manner in which these are observed and recorded, as on the soundness of the theoretical basis. It is perfectly possible to be correct in theory and yet fail in practice by too hastily accepting traditionally recognized signs of knowledge and thinking ability. This seems to be somewhat the case in the Columbia University Law School grading system.

Due to a complex of causes the traditional examination is not suited to the purpose implied in this theory of grading held by the Law School. English prose answers to legal problems, written under examination conditions, do not seem to be adequate manifestations ei-

ther of knowledge or of thinking ability. If all people were absolute masters of the art of using English as a medium of expression, and were allowed a reasonable amount of time in which to write, their prose products might be taken as a fair picture of their knowledge of, and ability to think in, the field in which they were writing.

The tradition of judging knowledge and ability from hastily written prose is probably associated with the popular custom of comparing authors on the basis of their published books; but, even in using the products of years of writing for such inferences, critics recognize the important principle of differences in writing ability over and above differences in thinking ability. Before the days of the printing press, speeches were the accepted bases for judging intelligence; and the mediæval disputation was the basis of educational measurement. To-day no one would think of comparing the abilities of students on the basis of impromptu orations or oral disquisitions on stated problems, because public speaking is recognized as depending upon special gifts, which are not always highly correlated with intelligence; but the impromptu essay is, psychologically, hardly more a mirror of a student's knowledge of and ability to think in the law of trusts than an impromptu speech would be. The case of the impromptu essay is aggravated by the slender samplings⁴ of materials and of performances which the time limits and its necessary brevity entail.

In addition to these weaknesses of the essay examination, there is another of quite different character, but of similar effect as regards accurate measurement: Whatever signs of knowledge and intelligence the essay may contain, they are not displayed in a form which is capable of accurate and convenient observation. They are always inextricably interwoven with complexities of varying degrees of relevance, and it seems to be impossible for the reader and judge of such papers to avoid being misled by one or another of the elements of this clouding veil into false estimates which sometimes

³ See op. cit. footnote 1, Chapters VII and VIII.

⁴ Id.

exhaust the limits of the scale used. Thus, in liberal arts courses in extreme cases, we find the same identical essay marked A by one professor and F by another equally competent professor in the same department in the same college.

The average correlation⁵ between the marking of an essay examination by two professors has never exceeded 0.65 or 0.70, and has usually been found to be in the neighborhood of 0.50. This weakness is the factor of unreliability known as *subjectivity*;⁶ it is a disabling characteristic of the traditional prose examination for which science has found no practicable remedy except that of changing to a form of examination the scoring of which is more objective.

While in theory the basis of grading in the Columbia University Law School is unassailable, it is in actual practice nothing more nor less than the subjective impressions which a professor gains from the heavily veiled evidences of knowledge and reasoning power which a student is able to force into three hours of writing on a group of from six to ten legal problems of varying length and difficulty. The answers of faculty members to those parts of the questionnaire bearing on the basis of grading follow:

RESPONSES OF FACULTY MEMBERS TO QUESTIONNAIRE

VI. What quality or qualities in an examination paper do you value most highly?

(1) In determining whether a man is high grade, ability to see the nature of the problem involved and the elements required for its solution are of the first importance. If he does not

give evidence of these qualities, he may pass provided he knows the more obvious rules of law, but, if he shows weakness with reference to the latter, he has failed.

(2) First and foremost, ability to see the point or points which are determinative of the result; second, knowledge of the rules which courts have adopted on these points; third, knowledge of considerations which have and should influence the adoption or change of such rules.

(3) It is difficult to answer this question. Some questions are framed purposely to arrive at the student's information. Others to test his ability to untangle a mass of facts some of which are important and some unimportant. Others present an open question and are intended to give the student an opportunity to show his capacity to construct an argument for one position or another. I look for different things in different questions depending upon why the question was given. I suppose my ultimate object is to try to find out if the student has sufficient hold on the subject to qualify him to undertake to give advice and deal with such problems at the bar, as I have heretofore assumed that the main object of the courses I have taught is to prepare the students to practice law.

(4) Seeing the points involved in a statement of facts; that is, upon what legal propositions, concepts, etc., does it turn, and what information must he have in order to solve the problem correctly. The correct application of the principle or concept to the given facts is the second most important quality. A correct statement of the rule of law I regard as of less importance, and a student frequently is able to state correctly a rule of law having more or less remote bearing on the case, and yet he will get a D because he shows that he doesn't understand what it means in application.

(5) The quality I value most highly is the ability to see all the difficulties involved in the question, and its interesting implications.

(6) The "law" governing a particular state of facts which happens to-day is the rule which will tomorrow be applied to the state of facts by the executive, administrative or judicial officers engaged in administering justice. The "law" is not the decisions made and statutes passed before the state of facts happened. Existing decisions and statutes are simply some of the stimuli, among many others, which are available to secure from the executive, administrative or judicial officer the response which will be the rule applying to the state of facts. In prophesying what the rules will be it is necessary for the lawyer to consider not only the stimuli but also the motivation, "set," or "drive," of the human being to whom he is to apply the stimulus. This involves of course the biological and social inheritance and also the whole experience of the human being from whom the response is sought. As a practical matter, however, in teaching, the social inheritance of the decision-maker alone can be considered. It is possible to get some notion of the "picture" of social organization which decision-makers carry around in their heads. What I look for in an examination book is the ability to isolate, evaluate and marshal the various factors both on the side of the stimulus and on the side of the response that will enable one to form a judgment of the response to be expected in the particular case; and also the ability to form a "reasonable" judgment on the basis of those facts. Obviously this requires a considerable knowledge of the previous decisions and statutes which are so important not only on the side of stimulus but also on the side of the social inheritance and the learned response models of the decision-makers.

(7) The capacity to detect the principle involved and to state strong reasons in support of his opinion as to how the case should be decided in accordance with the principle.

⁵ Correlation, or more properly, coefficient of correlation, is nothing but an exact mathematical expression of the degree of agreement or correspondence between two sets of measurements. It is an exact way of expressing a very common notion; there is no mystery whatever about it. Thus, instead of saying that A. guesses the heights of ten friends more accurately than B, we would in this mathematical language say that the correlation between A's guesses and the actual heights is, for example, 0.80, and the correlation between B's guesses and the actual heights is, for example, only 0.60. Coefficients of correlation are not percentages, but since a complete description of the scale of relationship cannot be presented briefly, the policy of asking nontechnical readers to think of correlation coefficients roughly as percentages has the sanction, tacit or implied, of nearly all writers. A correlation of 0.00 means a pure chance relationship; guessing heads and tails in coin tossing in the long run gives as many "misses" as "hits," and the correlation is zero. A coefficient of 1.00 means perfect agreement.

⁶ See op. cit. footnote 1.

VII. What, in your system, is the relative importance of knowledge of the law and facts, on the one hand, and "thinking ability," on the other?

(1) See V and VI above.
(2) See V and VI above.
(3) This question is difficult to answer. Ignorance of some rules of law would, in my opinion, be very serious. Ignorance of others would, in my opinion, be relatively unimportant. Of course, "thinking ability" is of the utmost importance, and probably counts more than any other one factor, unless the question happens to be one calling merely for information.

(4) The contrast or alternative is not well framed. If I interpret the question correctly, my emphasis is on "thinking ability." However, knowledge of what the cases hold, of the "rules," counts to a considerable extent. I frequently give questions as to which there is a conflict of authority among the various states; then, either conclusion (for plaintiff, or for defendant) is accepted, if supported by satisfactory reasons. So far as I can reduce to figures this intangible relativity, it is about 2 to 1; that is, twice as much emphasis on "thinking ability" as on information.

(5) I do not attach much weight to a student's ability to say what the courts have held on minor questions. Ignorance of what they have held on major questions is fatal. That is what I mean by "knowledge of law." In the course of the year in class discussion we develop certain concepts. The student's ability to reach and state his results in terms of those concepts is what I mean by "thinking ability." I attach substantially more importance to the latter than to the former; how much more I could not indicate quantitatively.

(7) I consider "thinking ability" as the decisive element, unless ignorance of the law and facts is such as to indicate that the student has neglected his work.

VIII. Do you ever rate an answer highly purely on "thinking ability" manifested, and in spite of ignorance of the factual law involved?

(1) By my method of questioning, I think it would be difficult for a man to make a high grade without a fair knowledge of the more obvious legal questions involved in the problem, for the reason that without this latter knowledge he has no material upon which to base his thinking.

(2) I give a C (60), as stated in VI, supra, if the man sees the crucial point involved. No higher grade is given unless the student knows either the rule of law adopted or the considerations which control the formulation of such rule.

(3) If the law of which the student was ignorant was a rule which I felt that the student ought to know if he had done his work reasonably well, I would give practically no credit for a demonstration of "thinking ability" which merely showed that he was mentally clever but quite ignorant of the topic about which he was writing. However, I would give a grade of A to a student who showed reasonable familiarity with the material and at the same time constructed an original argument in defiance of the views expressed by the courts or myself provided, of course, the argument presented was well constructed and worthy of serious consideration.

(4) No; never *highly*. I not infrequently grade B or C an answer which contains mistakes as to the factual law, if the mistake is not too glaring or fundamental. In deciding the border line cases, between C and D, and between A and B, I always place the emphasis

on sloppy thinking rather than on mistakes as to the rules of law or the holding of the cases.

(5) Yes.

(6) No.

(7) Yes; unless the ignorance is such as to indicate that the student has neglected his work.

IX. How do you construe the words "thinking ability" as distinct from knowledge of facts, and what are its manifestations which you rate most highly?

(1) I doubt whether I can add to my answer to VII, except to say that ability to discern the kind of a problem involved in a given state of facts and the elements which will have to be relied upon for its solution are of the first importance to the lawyer. This kind of discernment cannot be exhibited without first a good general knowledge of the legal devices and doctrines involved in the situation created by the statement of facts. His thinking ability consists in his ability to see them in their proper relations to each other, and therefore that use of a particular device will either exclude or supplement resort to another particular device, and thus determine the result. The expression "knowledge of the facts" might mean one or two things. It might mean knowledge of the sequence of events which give rise to the legal problem. These of course, in the case of a problem examination, constitute the question which the student has to answer. It might refer to knowledge of the law or legal doctrines and devices which are called into play by the sequence of events. This latter knowledge, of course, is a part of the stock in trade which every law student gets from his study of the books and his classroom discussions. How to use them involves the thinking ability which I have referred to above.

(2) "Thinking ability" might be construed to cover (1) ability to analyze resulting in a discarding of non-essential facts and a converging of attention upon the significant data; (2) marshaling of significant data in order of importance; (3) persuasive formulation of conclusions. The above are all good indications of a man's ability to practice law.

(3) I suppose the phrase "thinking ability" is here used in the sense of ability to form rational judgments and give expression to those judgments in such form as to convince others that the judgments are rational. I cannot conceive of "thinking ability" in the abstract. We necessarily judge another's "thinking ability" by the way in which he expresses his thoughts with reference to concrete situations.

(4) See answers to questions VI-IX. Ability to see the legal rule applicable to the facts and to apply it correctly.

(5) See answer to VIII.

(6) Answered under VII and VIII.

(7) Thinking ability is the ability to analyze the facts, to discover the principle involved and to support conclusions by reasons which would appeal to a reasonable man as sound and cogent. A knowledge of the facts of the particular case is, of course, essential, but a knowledge of how judges have decided upon similar facts is relatively unimportant in my opinion, unless the ignorance of such decisions indicates that the student has not studied his cases and attended the classroom exercises.

III. STANDARDS AND TENDENCIES IN LAW SCHOOL GRADES 1916-1923, INCLUSIVE

In regard to standards of excellence four significant questions, among several others, may be asked:

1. What is the average of grades giv-

en in the Law School, when a sufficiently large number of grades are considered to rule out temporary or accidental influences, as, for example, when all the grades given in all the courses in the law school during several years are considered?

2. What are the averages of all grades for each of several successive years; e. g., the seven years 1916-1923, inclusive?

3. What are the average grades in each course for several years taken together?

4. What are the average grades in each course for each of several successive years?

These questions will serve as a convenient outline for the presentation of other significant aspects of the distributions of Law School grades given during the period '16-'23, inclusive.

1. *Six-Year Average Law Grade.*—The average of all¹ grades given in all courses in the Columbia University Law School during the six long sessions, '16-'22, inclusive, is a very high C+. In terms of the numerical substitutes for the letter grades used in this study, the average is almost exactly 3.45. The numerical values assigned to the midpoints of grades F, D, C, B, and A were 1, 2, 3, 4 and 5, respectively.

In this numerical system, then, any value between 2.5 and 3.499 would be a C, and any value between 3.5 and 4.499 would be a B. The average law grade for the six long sessions studied is thus almost exactly halfway between a flat C and a flat B. The number of grades used in calculating this average is 16,409, a number large enough to enable us to accept the result with confidence.

Scarcely less important, if not actually more important, than the average of these grades is their variability, that is, the extent to which they cluster around or deviate from the average, because their variability is a certain rough measure of the discriminating power of the system of grading which produced them.

The standard deviation^{*} of the 16,409 grades around their true mean, 3.45, as origin, is 1.05; that is, slightly more than one letter grade. This means, that about two-thirds of all grades considered are either C or B, and that the remaining one-third are F, D or A. The actual numbers and per cents. of grades are: A's, 2,837 (17.3%); B's and C's together, 11,065 (67.4%); D's and F's together, 2,507 (15.3%). The number of F's is almost exactly half as great as the number of D's. Other facts concerning these 16,409 grades may be seen in Table 1.

TABLE 1

Grades	N	%	
A	2837	17.30	A's, 2,837=17.3%
B	5109	31.10	B's and C's, 11,065=67.4%
C	5956	36.30	
D	1958	10.10	D's and F's, 2,507=15.3%
F	549	5.20	
N	16409		
Mean		3.45=C+	
sigma		1.05	

2. *Seven Successive Year-Averages of Law Grades.*—The answer to the second question stated above gives us our first view of *tendencies* in the practical results of the present grading system. It may be stated at once that the most informative part of this study will be an analysis of the *trends* which all grades manifest from year to year, and of the *differences* which grades in individual courses manifest in the same year. In the absence of any exact objective criteria, it is only by a study of general tendencies that any inferences can be made as to the reliability, significance and uniformity of the grades. If tendencies occur frequently which cannot be explained except by assumptions which are untenable, it is clear that they are due to chance influences.

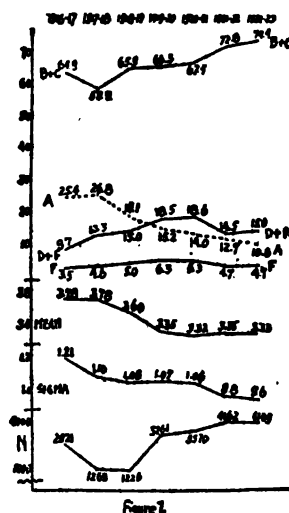
^{*} Standard deviation is an exact measure of dispersion or scatter. There is no mystery about it. If 200 students are taking two first year law courses, and one professor gives them D, C, and B grades in the following proportions, 20%, 60%, and 20%, respectively, and the other professor gives them F, D, C, B, and A grades in the following proportions, 10%, 15%, 50%, 15%, 10%, respectively, it is obvious that the scatter is greater for the second than for the first professor; that is, the effective discrimination of the second is greater. The Standard Deviations of the two sets of grades furnish a means for making exact and reliable comparisons between the discriminating power of the two professors.

¹ The word "all" here means *all that could be found*. It is quite possible that some, possibly 1%, of the grades given during this period, escaped the statistician.

TABLE 2

Columbia University Law School—Distribution of Grades by Years, '16-'22, Inclusive

	'16-'17	'17-'18	'18-'19	'19-'20	'20-'21	'21-'22	'22-'23
N [*]	2921.	1269.	1226.	2261.	2670.	4162.	4108.
M	3.72	3.68	3.53	3.35	3.32	3.37	3.33
Mdn	3.78	3.78	3.60	3.35	3.33	3.35	3.3
sigma	1.21	1.10	1.06	1.07	1.06	0.98	0.96
% A's	25.4	26.8	19.1	15.2	14.0	12.7	10.6
% B's	34.3	32.5	34.3	29.4	28.9	30.8	31.6
% C's	30.6	27.4	31.6	36.9	38.5	42.0	42.8
	64.9	59.9	65.9	66.3	67.4	72.8	74.4
% D's	6.2	8.7	10.0	12.2	12.3	9.8	10.3
% F's	3.5	4.6	5.0	6.3	6.3	4.7	4.7
	9.7	13.3	15.0	18.5	18.6	14.5	15.0



Explanation of Figure 1

Grading tendencies in Columbia Law School during seven consecutive long-sessions. The topmost curve shows that during the sessions '16-'17 to '22-'23, inclusive, the proportion of B and C grades increased steadily, with one exception (during the war session), from 64.9% to 74.4%. The dash line curve shows that the percentage of A grades decreased equally steadily during the seven sessions from 25.4% to 10.6%. The percentage of D and F grades rises from 9.7% in '16-'17 to 18.6% in '20-'21, and then falls off to 15% in '22-'23. The curve for F grades is practically flat throughout the seven sessions.

The next curve shows that the arithmetic average of law grades falls during these seven sessions from 3.78 to 3.33, that is, from B to C₊, which is almost one half the standard deviation of all grades given during the 7 years.

The curve for standard deviation or sigma falls from 1.21 to .96, showing a significant contraction in the effective discriminating power of the Law School grades. This seems to be due to a growing reluctance to give A grades, which in turn seems to be due very largely to changes in the teaching personnel of the Law School.

The curve at the bottom of the figure shows the total number of grades given in each of the seven

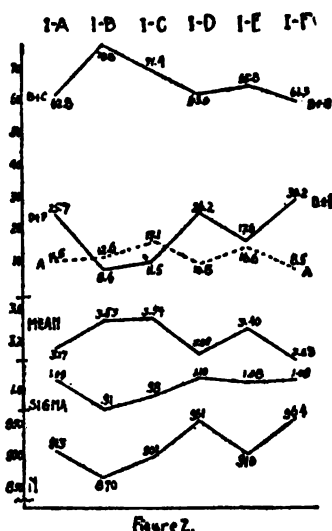


Figure 2.

sessions. Excepting the two war years, the number of grades given each year has grown steadily from 2921 to 4108.

Explanation of Figure 2

Differences in standards of grading between the six first year law courses, counting all the grades given in each course during six long sessions ('16-'22, inc.). It is to be read as follows: During the sessions '16-'22, 62.8% of the grades given in I-A were either B or C, 78.9% in I-B, etc. During these six years 8.6% of the grades given in I-B were either D or F and in I-F 30.2%. The other curves correspond to those described in the legend of Figure 1 and in the text.

Table 2 gives, and Figure 1, on page 347, displays graphically, the facts concerning the annual distributions of law

* N stands for number of cases; M for mean or average; Mdn for median (another measure of central tendency or average; sigma for standard deviation; %A's, percentage of A's, etc.

grades for six successive years. The average grade falls steadily for three years from a B— to a C, which is maintained without change for the last four years. According to the best available information from members of the Law Faculty, there has been no concerted effort during the last six or seven years to raise the examination standards in the School of Law.¹⁰ On the other hand, there has been no observable lowering in the quality of students admitted during this period. The admissions throughout the period have been administered by the same officer, and, if the requirements have changed at all, they have become higher, not lower. It should be noticed that the fall in the average grade has been caused, not by a general shift in the distribution downward, which would result in a larger proportion of failures, but by tremendous reductions in the proportion of A grades. The proportion of failures has increased only slightly, while the proportion of B and C grades has increased almost enough to absorb wholly the large exodus from the A category. The most pronounced tendency during these six years, then, has not been so much a raising of standards as a contracting of the variability of the distribution, resulting in a lowering of the effective fineness of discrimination in the reported grades of the students. This fact is not only indicated by the nearly balanced opposition of the "B and C" and "A" curves, but is exactly expressed by the falling curve of sigma (standard deviation)¹¹ in the face of a rising curve of population.

3. *Six-Year Averages for Individual Law Courses.*—Distributions of all grades given in each of the six first year courses during the period '16-'22, inclusive, are given in Table 3. To facili-

TABLE 3
Percentage Distributions of Grades Given During
Six Years, by Subject-Matters—First Year
Courses

	IA ²²	IB	IC	ID	IE	IF
N	913	870	902	961	910	944
M	3.17	3.53	3.54	3.09	3.40	3.03
sigma	1.09	.91	.98	1.10	1.08	1.09
% A's	11.5	12.6	17.1	10.3	16.6	8.5
% B's	26.6	39.3	34.4	23.0	21.3	25.9
% C's	36.3	39.0	37.0	40.0	44.6	36.4
	62.8	78.8	71.4	63.0	65.8	61.3
% D's	18.2	5.0	8.1	16.9	10.9	20.9
% F's	7.5	3.6	3.4	9.3	17.6	9.3
	25.7	8.6	11.5	26.2	28.5	30.3

tate comparisons the salient features of these distributions are represented graphically in Figure 2.

To apprehend the full force of the differences displayed in Figure 2 on page 347, we must remember that to an extent not less than 95% the *same* students are represented by every point on these curves, that all the grades of each student were given for work in courses studied contemporaneously, and finally that the number of cases is so large that chance influences affecting sampling are ruled out. Apparently the conclusion is inescapable that the instructors in these six courses maintained significantly different standards of excellence: About 900 students take I-F and I-B contemporaneously; 30% fail in I-F and 8% in I-B; the average grade in I-F is a flat C and in I-B a B—, a difference of about one-half the average standard deviation;¹² 8% receives A's in I-F and 12% in I-B.

These data indicate not only the existence of different standards of achievement in different courses in a very homogeneous field of material, but also the existence and use of different and variable systems of units. These indications are in full consonance with the results of every scientific investigation that has been made of the traditional subjective system of educational measurement.

¹⁰ But it should be noted that there have been changes in the personnel of the teaching staff, and that a considerable part of the tendencies displayed in Figure 1 may be accounted for by these changes in personnel.

¹¹ Standard deviation is, in algebraic operations, usually denoted by the lower case Greek letter sigma. See *supra*, footnote 8.

¹² In order to make the report as impersonal as possible, combinations of Roman numbers and capital letters like these are substituted for the names of law courses. First year courses are indicated by I, second year by II, third year by III.

¹³ See *supra*, footnote 8.

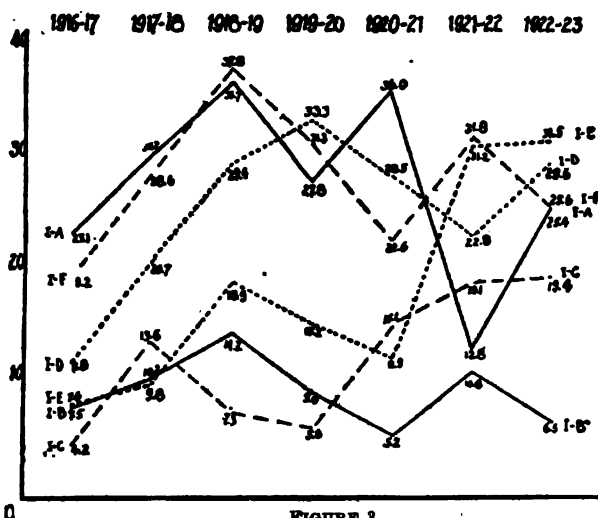


FIGURE 2.

Explanation of Figure 2

Percentages of failing grades (D or F) given in first-year courses in each long session '16-'23 inclusive. The reader should recall that in each year group the personnel of all six courses is made up of the same individuals. Of about 150 students taking these six courses in '16-'17, 11.8% failed in

I-D and only 4.2% in I-C; of about 150 taking these courses in '19-'20, 5.8% failed in I-C, while 33.3% failed in I-D—that is, for one that failed in I-C, five or more failed in I-D. The curves for I-A and I-E cross each other violently from '20-'21 to '21-'22, due apparently to simultaneous changes of instructors in the two courses.

A similar chart for second year law courses¹⁴ points to similar conclusions. The electives allowed in the second year courses lower the percentage of community of personnel in the classes represented, but the validity of comparisons is probably fully maintained by the selective process of becoming second year men in the Law School. During the six years under consideration, three times as many students failed in II-A as in II-B. The number of students in each of these courses during the period '16-'22, was about 750. The two courses II-E and II-F with about 500 students in each, give each about four times as many fail-

ures as II-B. II-G yields 35% A grades, II-B 20%, while II-E contributes 11.5% of A grades. From the viewpoint of the scientific study of education, which depends so strictly on consistent and reliable measures of the products of teaching, these incredible differences are nothing short of shocking. When we reflect upon the ambiguities of these grades and the large number of hours which professors of law spend annually on the unwelcome task of reading blue books, when they might be engaged in productive work for which they are especially fitted, it would seem that almost any system of marking that maintained the present level of accuracy and relieved the professors of some small part of this drudgery would be a welcome change.

¹⁴ The charts for second and third year courses are in the hands of the editor. They are so similar to that for first year courses (Fig. 2) that, by agreement with the author, they are omitted from this printing.

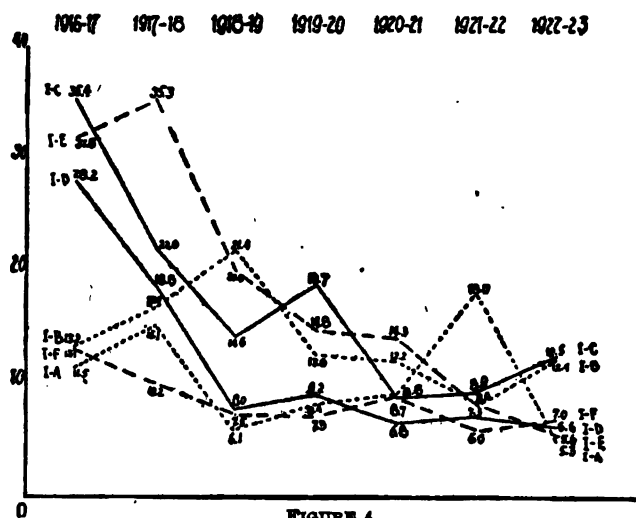


FIGURE 4.

Explanation of Figure 4

Proportions of A grades given in each first year law course in each of seven successive long sessions. The decrease in percentage of A grades is the most consistent and uniform tendency which

has thus far been observed with regard to the Columbia Law School grading system. The reader must again recall that within each year group the personnel of all six courses was made up of the same individuals to an extent not less than 95%.

4. *Tendencies in Individual Courses.*

—Tables 4 and 5 show the grading tendencies during six years in each of two first year law courses whose community of student personnel was not less than 95%. Similar tables for the other four first year courses are not sufficiently different from these to make it worth while to print them here.

TABLE 4—I-A

	'16	'17	'18	'19	'20	'21
N	104	53	49	262	194	234
M	3.7	3.2	2.98	3.50	2.93	3.54
sigma	1.07	1.23	.95	.95	1.12	.98
% A's	11.5	15.1	6.1	8.4	8.8	13.0
% B's	25.0	30.2	20.4	25.2	22.7	32.8
% C's	40.4	24.5	36.3	38.6	32.5	36.4
	65.4	54.7	57.2	63.8	55.2	69.2
% D's	15.4	18.9	23.6	18.7	25.2	10.7
% F's	7.7	11.3	8.1	9.1	10.8	2.1
	23.1	30.2	36.7	27.8	36.0	12.8

TABLE 5—I-E

	'16-'17	'17-'18	'18-'19	'19-'20	'20-'21	'21-'22
N	104	51	95	236	203	221
M	3.87	3.75	3.34	3.28	3.34	2.91
sigma	1.02	1.12	1.04	1.00	.90	1.16
% A's	31.8	35.3	20.0	14.8	14.3	7.7
% B's	34.6	17.7	14.7	20.0	18.3	23.1
% C's	26.0	37.2	46.4	50.0	55.5	38.0
	60.6	54.9	61.1	70.0	73.8	61.1
% D's	3.8	5.9	16.8	9.3	10.4	14.9
% F's	3.8	3.9	2.1	5.9	1.5	16.3
	7.6	9.8	18.9	15.2	11.9	31.2

For convenience of comparison, the most striking differences for the six first-year courses have been summarized in Figures 3 and 4, on pages 349, 350.

The largest difference occurs in the session '18-'19. In I-F nearly 40% of the grades are F or D; in I-C less than 10% are F or D. Apparently there is no explanation of this large difference except that of a faulty grading system. To an extent not less than 95%, the same identical individuals who were taking I-F, in '18-'19 were taking I-C in that year, and it is difficult to conceive how the "reasoning power" of these students could be so effective in one course and so ineffective in another. That this difference is not due to some sudden and temporary derangement of the order of things, but rather to the permanent variability and inconsistency of subjective judgments, is strongly indicated by the data for the three succeeding years. The opposed leaps of the curves for I-E and I-A between the sessions '20-'21 and '21-'22 furnish evidence that seems almost decisive. In '20-'21 I-A yielded about 35% and I-E about 10% of F and D grades; in '21-'22 I-A gives about 10% and I-E about 30% of F and D grades. If reasoning power is as fickle

and inconstant as these figures would indicate, it would not seem to be worth measuring at all. The most interesting thing about these particular facts is not so much the additional evidence of large differences between different professors which they furnish, but rather the almost unquestionable indication of gross variations in the standards and units used by the *same* professor at different times. The existence of these variations of an unpredictable character in the grading of the same professor has long been known, or suspected with considerable certainty; what has not been so well known is the incredible magnitude of some of these variations, even when toned down by the consideration of mass effects on large groups of students. The magnitude and frequency of the chance variations with respect to individual students are undoubtedly greater than we have commonly thought them to be.¹⁵

IV. RELATIONSHIPS BETWEEN LAW SCHOOL GRADES

1. *Relationships Between Grades in Individual Courses.*—Various opinions have been expressed to the investigator as to what actually *is* or what *ought to be*, the relationships between grades in designated law courses. At least a few of these opinions have been in direct conflict with the assumptions underlying the administration of the Law School in the matter of admissions and expulsions on grounds of reported scholarship. One of these opinions expressed to the writer was to the effect that there *was not* and *should not be* any pronounced correlation between grades in different law courses; the reasons for holding this opinion were apparently too complex for brief exposition, but it was clear that it did not rest on experimentally derived data. But the "weight of opinion" in the Columbia University Law School as far as the writer could learn was to the effect that there *was* and *should be* a fairly close correspondence between grades in different courses. On a priori grounds this seems the

more reasonable opinion. The material of all law courses from the viewpoint of the psychology of learning and of thinking is very homogeneous, and the method of teaching is the same in practically all the law classes. It would seem, therefore, that a student's relative gain in one course should closely approximate his relative gain in another, if the relative gain in each course were accurately determined. Conversely, granting this premise, a low correlation between measures of relative gains in two law courses would imply a faulty system of measurement. Of course, there is no absolute objective proof that there really is a high correspondence between relative gains in any two law courses, since no reliable measures of such gains have ever been available; but it would seem reasonable to suppose that the relationship ought to be at least as high as that between relative gains in French and trigonometry. The average correlation between achievement in French and trigonometry, studied contemporaneously, seems to be not less than 0.60 when fairly reliable measures are available in both subject matters. Table 6 shows the obtained correlations between grades in indicated law courses.

TABLE 6

Correlations between Grades in Indicated Law Courses

The figure .39 is the correlation between grades in II-A and I-F, Law Class 1922 (N=100+).

	I-F	II-D	III-B	I-E	I-A	Average Correlations.
II-A	.39	.62	.39	.42	.45	.454
I-A	.50	.28	.47	.41		.422
I-E	.32	.24	.21			.320
Average correlations	.403	.38	.36			

Average correlation between grades in first year courses=.41; Average of all correlations=.40.

The highest correlation between first year courses is 0.50, the lowest 0.32, and the average of the three calculated is 0.41. Some courses give systematically higher correlations than others, thus indicating again that, just as subjective standards vary with the professor, the significance of grades also varies. II-A, has the highest average correlation, 0.454, and I-E the lowest, 0.32. The average of all these intercorrelations is $r=0.40$.

¹⁵ Because of limitations of space, the tables for second and third year courses are omitted in this printing.

2. *Relationships Between Average Grades in Groups of Courses.*—When the grades in three of the first year law courses are averaged and correlated with the average of the grades in the other three first year law courses, the coefficient turns out to be 0.73 ($N=143$). But the correlations between the average grade of the last year in law school with the average grades of the second and first years are only 0.70 and 0.61, respectively ($N=100$). A second determination of the relationship between third and second year law school average grades based on 56 cases (not included in the 100 used above) gave $r=0.69$. In other words, the prediction of relative standing in the second year of law school work on the basis of the average of all first year grades is no better than is indicated by a reliability coefficient of 0.70. The error of estimate¹⁶ is over 70% of what the error would be if the estimates were made on the basis of tossing a coin or some other pure chance basis.

3. *Other Relationships.*—The correlation between standing in Columbia College and in Columbia University Law School has been found to be rather low. In the Law Class of 1922, fifty of the graduates were found to have received their preparatory collegiate work in Columbia College, and all but a few of these had spent two or three years in Columbia College. The average of all grades received in Columbia College were correlated with the average grades of each of the three years in Law School, in order, with these results:

(1) 0.47; (2) 0.33; and (3) 0.30.

Even allowing for the contracted variability in a highly selected group, these

coefficients are so low as to cast grave suspicions on the traditional measuring devices. Correlations between grades in groups of law courses and scores on three intelligence tests are given in Table 7.

TABLE 7

Correlations Between Intelligence Test Scores and Indicated Measures of Achievement in the Columbia University Law School

	r	n
Average grades of first and second year law courses (third year men)	0.42	197
First year average grades of second year men	0.51	159
Second year average grades of second year men	0.41	106
Average of first and second year grades together (second year men)	0.57	158
Average grades first year men	0.55	61

4. *Reliability of "Case-Method" Law Examinations.*—The data already presented afford certain inferences as to the reliability of the present system of marking as a whole. At this point the purpose is to present certain facts in regard to the reliability or "self-correlation" of the present type of law examinations as usually made and scored. The correlations between nine pairs of individual questions from four final examinations given in May and June, 1923, give an average correlation of 0.23. Each pair considered was from the same examination. By the use of a statistical device known as Brown's Formula,

$$r_{22} = \frac{2r^n}{1+r^n}$$

(which was independently derived in its more generalized form by Spearman), we can predict with considerable confidence the degree of reliability which would be obtained by using 2, 3, 4,n similar questions in an examination. Thus, knowing the reliability of one question to be 0.23, we could say that the reliability of two similar questions would be 0.374; of three similar questions, 0.473; of four, 0.544; of seven 0.625; of eight, 0.706. A skeptical friend suggested that, if these predictions were capable of experimental verification with law examinations, it would be worth while from more than one viewpoint. Thus, if it were found that the actual correlation between two questions and two others in the same ex-

¹⁶ Error of estimate, is, roughly speaking, another way of expressing the meaning or value of a coefficient of correlation. If the correlation is zero, then the error of estimate is just as large as the error of pure chance; if the correlation or agreement is some value above zero, then the error of estimate will not be as large as the error of pure chance; if the correlation is considerably above zero, say 0.86, the error of estimate will be considerably less than the error of pure chance, in this case 50% less. That is, if the correlation is 0.86, the error of estimate is just 50% as great as the error would be by pure chance. If the correlation is 0.50 the error of estimate is 86% of the error of pure chance, in terms of Standard Deviation.

amination were very near to the predicted 0.374, and that the same held for 3, 4, etc., questions, not only would the reliability of law examinations be established with more assurance, but also our confidence in the validity of Brown's Formula would be promoted. The suggestion was acted on with the following results:

Number of Questions	Predicted Reliability	Actual Reliability
2	.376	.361
3	.473	.470
4	.544	.550
5		
6		
7		
8	(.702)	(.71)

The confirmation of Brown's Formula here goes only as far as the third line, since there was no law examination available which contained more than eight questions. The reliabilities for eight questions (in parentheses) are estimated in both cases from those for four questions in the third line. It seems reasonable, however, to assume that the prediction of 0.702 for eight questions is probably as safe as that of any one of the others in that column, since they are all confirmed as far as the confirming facts were obtainable.

The conclusion, then, is that the reliability of "case-method" examinations of three hours duration is about 0.70. This is slightly higher than the reliability of essay type examinations used in other fields of learning. The average reliability of old type examinations in other subject matters is not far from 0.60 in either direction.

V. AN EXPERIMENT WITH A NEW TYPE OF LAW EXAMINATION

1. *Conclusions on Present System of Grading.*—The conclusions which have been drawn from the facts presented in sections I-IV, inclusive, of this report may be briefly summarized.

a. The theoretical basis of grading in the Columbia University Law School is perfectly sound; grades are assigned for "knowledge of, and ability to think in, the materials of legal practice." Neither "knowledge of facts" nor "ability to think" are assumed; both must be measured in order that the grades may be significant and reliable.

b. In spite of the sound theoretical basis of grading, there are large variations in standards of student achievement as between different professors, and from year to year in the grades of the same professor.

c. In addition to variations in standards of achievement, the law school grades suffer from the common weakness of all subjective measurements called technically, unreliability. Two equivalent three-hour final examinations in a course would not agree to an extent greater than is indicated by a reliability coefficient of 0.70; the average grade in first year courses will not predict average grade in second year courses to an extent greater than $r=0.70$. These weaknesses are due to (1) subjectivity in constructing and (2) in scoring the traditional essay examinations; (3) the inadequate samplings of materials from the subject-matter and (4) of the performances of the student in that subject-matter; and finally (5) to variable and indefinite units of measurement.

2. *Experiment with a New Type of Examinations.*—These conclusions suggested at once the advisability of trying out in the Law School the "new-type" examinations, which are more objective and afford wider samplings of both materials and performances, and which have proven to be so successful in Columbia College and elsewhere in recent years. The true-false¹⁷ type of questions has accordingly been tried out in three Columbia University Law School courses, I-A, I-E, and II-A, and in a Business Law course in Extension. It was decided to divide the final examination period in each of the three Law School courses about equally between the new and old type examinations. The old-type part of the examination consisted of three or four "case-method" questions, and the candidate was told to write on three questions in two examinations and on four questions in the third examination. The new-type part varied as to number of questions from

¹⁷ The true-false question is only one of several kinds of objective questions that are used in the "new-type" examinations. It may be that other forms of objective questions may prove more advantageous for law purposes.

60 to 200; the new-type part of the examination in I-A consisted of 75 true-false statements; in I-E, of 200; and in II-A of 97. In the Ex. B. L. course 60 new-type and no old-type questions were given. The results were correlated with those of an old-type examination given to the same group of students the preceding semester. The coefficient thus secured was 0.60. Sample questions used in the new-type Law School examination follow:

Directions.—Read these cases and the statements. Mark each statement at the left of its number, with a plus sign (+) if you think it is true, with a zero (0) if you think it is false wholly or in part. Each statement marked correctly gives you a credit of one point; each incorrectly marked statement counts as a penalty against you, and is subtracted from your score; omitted statements do not count against you as penalties, but reduce your total score. Do not guess. The chances are against you in guessing. A wrong response counts more heavily against your score than an omitted question.

Your score will be based upon plus signs and zeros; don't waste time writing anything else.

Mark each statement in complete disregard of every other statement; i. e., judge each statement by the facts stated in the problem, and do not allow your judgment to be influenced by facts or assertions in other statements. Unless otherwise expressly stated, each statement refers only to the facts stated in the original problem.

Case.—The U. S. government issued bonus bonds to all veteran soldiers of the World War. An act of Congress provided that those bonds should not be transferable or alienable in any manner whatsoever and that the holder should have no power to pledge the bonds or to give any interest in them as security for any indebtedness. A., a World War veteran, was the lawful owner and holder of three of these bonds.

(a) A. for valuable consideration in writing declared himself trustee of bond No. 1 for B. Thereafter A. collected bond No. 1 at maturity.

(b) A., who owed C. a debt, orally declared himself trustee of bond No. 2 and the proceeds thereof, if and when collected, for the benefit of C. as security for the debt. A. thereafter collected bond No. 2 at maturity.

(c) A. orally declared himself trustee of bond No. 3 and the proceeds thereof, if and when collected, for the benefit of D., in consideration of D.'s making a loan to X., which D. did. A. thereafter collected bond No. 3 at maturity.

With respect to (a):

.....1. There was a valid trust of bond No. 1 in favor of B.

.....2. There was a valid trust of the proceeds of the bond in favor of B.

.....3. The non-concurrence of the declaration of trust and the acquisition of the proceeds is sufficient in this case to preclude the establishment of a trust.

.....4. A reason why the trust fails is that the money was not set apart as a trust fund.

.....5. The last two statements give the only grounds precluding the establishment of a trust.

With respect to (b):

.....6. There is a valid trust of bond No. 2 in favor of C.

.....7. There can be no valid trust of the proceeds of bond No. 2 in favor of C., unless there was consideration for the trust.

.....8. No trust was established upon receipt

of the proceeds, even if consideration was given for the declaration of trust.

.....9. In most jurisdictions the trust of the proceeds in favor of C. would fail for want of consideration.

.....10. The trust fails in favor of C. for want of a writing.

.....11. No trust was established at the time of the declaration.

With respect to (c):

.....12. There is no trust in favor of D. because the declaration was oral.

.....13. Failure of consideration passing from D. to A. was sufficient to prevent a trust arising.

.....14. There was a valid trust of the No. 3 bond.

.....15. If there was not a valid trust of the bond, there was not a valid trust of the proceeds of the bond.

.....16. There would not have been a valid trust of the bond, if there had been a writing.

.....17. There was no trust of the proceeds, because there was no concurrence of the declaration of trust with the acquisition of the res.

.....18. The trust fails because there was no setting apart of the res.

.....19. The trust fails because there can be no transfer of a chose in action without a writing or a delivery of the instrument representing the chose in action.

In each of the three Law School examinations, the new-type part was given after the "case-method" questions had been answered and the blue books collected. The blue books were graded by the professors in each course, and the true-false booklets were scored by clerks under the supervision of the writer at a cost of \$0.50 per hour. The 700 new-type papers were scored and grades reported in less than 100 clerk hours of work, at a total cost of less than \$50.00. The reading of the essay parts of the final examinations in these four courses required not less than 40 hours of very unpleasant work on the part of each of the three professors of law. The making of the new-type tests involved considerably more careful work than is ordinarily involved in making out essay examinations; but this is more than compensated for by the ease of scoring new-type tests, and with practice it becomes progressively easier to construct new-type papers.

3. Significance of New-Type Examinations.

TABLE 3

Correlations between new-type and essay parts of the final (and only) examinations in indicated courses:

	r	n
I-E	0.57	229
II-A	0.54	201
I-A	0.39	214

Table 8 shows the correlations between the new-type and essay parts of the final examinations in the three Law School courses in which the new type was tried out. The agreement is in every instance but one as great as the reliability of the essay examination will permit. This shows that the new type measures what the old type measures, and does it with greater reliability, as shown in Table 11 below. The new-type examination in I-A did not have a sufficient number of questions. The number of questions was purposely limited, because no one knew just how many questions of this type could be answered in the time limits set, and it was also desirable to find, if possible, just how small a number of questions of the new type would suffice to give a satisfactory degree of significance and reliability. It seems that 200 is the minimum from which we can expect satisfactory results.

One of the criteria of significance used in section IV above was the relationship between grades in different law courses. Grades based on the new-type part of the examinations in I-A and I-E give a correlation of 0.52; the old-type parts, 0.51. The correlation of old type II-A examination, with the average of all first year law grades, is 0.49; that of the new type, 0.51. These are not significant differences; but it is believed that the differences would have been quite significant if the new-type examinations in I-A and II-A had contained as many questions as the new-type examination in I-E. It was shown in the last section (IV) that the average inter-correlation of grades in different law courses is about 0.40. More data are still necessary in order to resolve the question of what the relationships between relative gains in law courses actually are.

Another criterion of significance suggested above is based on the relationships between grades and intelligence tests. If the new-type tests measure "thinking ability" in addition to what has been miscalled "superficial" knowledge, they ought to correlate with general intelligence examinations as highly as

the old-type tests do. Table 9 answers the questions here implied so clearly that further comment is unnecessary.

TABLE 9

Correlations between new and old type examinations, on the one hand, and intelligence tests, on the other. The column of *r*'s headed "Old" represent relationships between the "case-method" part of the final examinations in indicated courses and intelligence tests of known high reliability; the second column, headed "New," shows the relationships between the true-false part of the final examinations and the same intelligence tests.

	Old	New
I-E	.18	.57
	.30	.54
I-A	.29	.41
II-A	.51	.42
	.40	.41
Averages	.334	.47

It is, of course, true that in Table 9 "old type" does not mean a full three-hour essay examination; it means a three or four question "case-method" examination, on which the student was allowed to write only one or one and one-half hours. It is therefore pertinent to learn what the relationship is between three-hour final essay examination marks and the same intelligence tests. Table 10 shows this relationship to be only slightly better for the three-hour essay examination than for the brief-essay examination, and still considerably in defect of the average correlation of the new-type tests with the intelligence tests. This evidence is quite reliable and is distinctly in favor of the new-type examination.

TABLE 10

Correlations Between Intelligence Test Scores and Grades in Indicated Law Courses

I-F 3 hour old examination	.42
II-D 3 hour old examination	.36
II-F 3 hour old examination	.39
II-C 3 hour old examination	.39
Average	.39

4. *Reliability*¹⁸ of New-Type Examinations.—In Table 11 are shown the comparative reliabilities of the short-essay examination (one and one and one-half

¹⁸ *Reliability* is the technical name for consistency or self-agreement in a measuring device. Reliability is often called, more descriptively, self-correlation. If a measuring device is consistent and valid, and is applied to the same series of objects twice, it ought to yield two sets of identical measurements, so that the correlation between them would be 1.00, or perfect. As a matter of fact, very few measuring devices have "perfect" reliability; some are better than others for specific purposes. In anthropological studies, for ex-

hours) and of the new type examinations given in the three courses, I-E, II-A, and I-A in May-June, 1923.

TABLE 11

Reliability of New and Old Parts of Examinations
in Indicated Law Courses
(n=280+)

	Old	New
I-E	.53	0.80
II-A	.55	0.62
I-A	.54	0.56
Averages	.54	0.66

The reliabilities of the one hour and one and one-half hour essay examinations, consisting of three or four questions, are just about the same in the three courses. The differences are negligible, but it is interesting to note that the one which happens to be lowest is the one which contained four questions. Apparently, students can display their reasoning powers about as well on three out of four as on four out of four questions in one or one and one-half hours of writing. Other investigations, notably the Contemporary Civilization experiment in Columbia College, indicate that writing for one hour, on one or two questions chosen from four or five, gives estimates of reasoning ability which are at least as good as those derived from writing on ten questions in three hours. This indication is confirmed by the testimony of many of the best students in law courses and in liberal arts courses as well.

The average reliability of the new-type parts of the final examinations in I-E, II-A and I-A is 0.66. The highest reliability coefficient is given by the I-E examination with 200 questions; the lowest by the I-A examination with 75 questions. This indicates again that 200 is the least number of questions that we can safely include in a new-type examination of the true-false kind. Students can easily answer 200 questions in 2 hours; less than a dozen of the 225 students taking I-E failed to reach the end of the examination, and none failed

to reach the 185th question in the time allowed. Those who did fail to reach the end were in the most cases those who received D or F on the essay part of the final examinations.

5. *Comparability of New-Type Examinations.*—We have found thus far that the new-type examination correlates with the old-type as highly as the latter does with itself, that the new-type is more reliable, and that it seems to measure thinking ability and intelligence as well as breadth of significant information. It still remains to be shown whether the new-type objective examination, affording a wide sampling of materials and performances, is capable of making our standards of excellence comparable, and of stabilizing our units of measurement.

TABLE 12

Means and Sigmas of Random Halves of New-Type
Examination in I-E

	Means	Sigmas
Odd-numbered questions, 1, 3, 5, 199	39.1	14.9
Even-numbered questions, 2, 4, 6, 200	40.00	12.5

Table 12 shows that, if we took each year 200 random questions from a set of 2,000 carefully prepared questions on the basic content of a course, we should have both a stable unit of measurement and uniform or comparable standards for ten years. All that is necessary is to have a stable point of reference and a stable unit in which to reckon from that point of reference. The point of reference would be the average score attained by the class in any year chosen as the base year, and the unit of measurement would be the standard deviation of the scores in that base year. The operation of this method could, of course, be checked up with the aid of intelligence tests used in the admissions office, and also by reference to any changes in the standards of admission that might be introduced.

The details of such a method would require language too technical for presentation in this report;¹⁹ but its operation would be quite simple and would involve very much less work than the present system which affords no basis at all for comparable units and standards. It

ample, measurements of head length made by means of the foot rule are quite unreliable as compared with those made with calipers; therefore calipers are always used where possible, because they have greater reliability, and obviously measure what is intended to be measured. Other things being equal, the most reliable device should be used.

¹⁹ See op. cit. footnote 1.

should be understood, of course, that this scheme would not result in "perfect" measures; it would only give the nearest approximation to the exactness and comparability of physical measures that we now know how to secure. It should be made clear, however, that such a scheme would not impose that "dead uniformity" which some educators have made into a fantastic and dreadful enemy of the people. The method here suggested would, in itself, neither approve nor disapprove change or monotony; it would merely give a more secure basis for whatever policies the administration might adopt; it would enable the administration to maintain stability more exactly if it wanted to do that, or to introduce a change more exactly if it wanted to make a change. In courses the subject-matters of which change markedly from year to year, comparability of standards and units could be maintained only indirectly through the use of standard intelligence tests or standard tests of achievement in the more stable subject matters. In fact, in order to maintain fairly comparable standards and units of measurement with the new-type examinations it would be sufficient if there were only three or four law courses of fairly stable content. In these courses, the new-type test should be devoted entirely to the more stable elements, and the essay examination reserved almost entirely for the changing and novel elements in their contents.

6. Opinions of Teachers Who Have Experimented with New-Type Examinations.—Without comment we shall present excerpts from memoranda furnished by instructors and professors from various departments in an Eastern undergraduate college who have experimented with and used the new-type tests for two or three years. We shall also present the opinions of several professors in the Columbia University Law School, who have either participated in the experiment reported above, or have followed it and studied its results closely. The opinions of these law professors will be presented mainly in the form of answers to questions included in the

questionnaire referred to in preceding sections. It may be said that no teacher who has tried out the new-type tests, however skeptical he may have been at the beginning, has failed to adopt it as a regular part of his examinations, and that no teacher (or group of teachers) that has once adopted the new-type examination has given it up and gone back to the old-type test. A conservative estimate of the number of examinations actually given, which form the basis of the opinions quoted below, results in the following figures:

Physics	500
Zoology	300
English	300
History	500
Economics	300
Government	300
Statistics	200
Contemporary Civilization	1,500
Total	4,900

Several other departments have also used the new-type tests for two years or more; but the facts here given sufficiently illustrate the variety of subject-matters in which the new-type tests have proved to be of great value. Without exception these extensive experiments have shown that the new-type tests measure what was intended to be measured better than the traditional examinations. The new-type tests have without exception shown greater reliability than the old-type examinations, and have always correlated with the latter as highly as the unreliability of the latter would permit; that is, the new-type grades agree with the old-type grades as well as the old-type grades agree with themselves. This shows beyond doubt that the new-type tests measure all that the traditional tests measure, and do it more reliably.

In regard to the opinions here presented, which have been chosen from a larger number, because they came from departments most nearly allied to the Law School, especial attention is invited to what is said about the effect of the new-type tests on the character of the student's preparation and academic ideals.

(1) "My experience with the new method has thus far been too brief to warrant a categorical statement, but all the evidence (and of this I am reasonably convinced) seems to point to the conclusion that it is much the most accurate

method of testing students' knowledge of the subject that we have yet discovered. It does not, however, in my judgment, test sufficiently the student's power of accurate and cogent expression, and his ability to organize his material. I should therefore feel that in an examination adequate time should always be given for at least one or two questions of the essay type."

A. P. E., Assistant Professor of History.

(2) " * * * Furthermore, the pedagogical value of examinations is appreciably increased. * * * The premium on spotty cramming is removed. The certainty that examinations will be full as well as fair is a constant stimulation to consistent effort throughout the period of study covered by the examinations."

R. G. T., Assistant Professor of Economics.

(3) "The pedagogical value of these examinations lies first in the fact that a very wide field of information can be covered in the same amount of time, and still more in the fact that the student must make his ideas on definite questions clear and distinct. The only disadvantage from the pedagogical point of view is that the student receives no practice in expounding his views at length; but the quality of exposition made possible for the average student within an examination period is not high enough to make this consideration very serious. If examinations aim to provide a basis for grading and at the same time to discipline a student's judgment, this seems to be a good type of examination."

H. L. F., Instructor in Philosophy.

(4) "I believe the testing of accomplishment by means of a paper made up of several fifteen or twenty-minute essay questions is fair neither to student nor examiner. If the questions require the marshaling of material from a range of sources, the vaguest generalities only can be stated in the time allowed. If they call for specific information, the range of topics will be too limited for an adequate estimate of the student's grasp of the whole subject. Marking is bound to be subjective, and the preservation of uniform standards throughout a long series of papers of the essay type most difficult for the examiner. I believe the new type of examination, to be most successful, should include two parts, namely: (a) A two-hour examination of the new type; and (b) a one-hour paper consisting of one or two essays upon topics selected from a fairly large number of choices.

"The chief points in favor of the new examination seem to be:

"(a) Complete objectivity in marking, making the marking of examiners identical.

"(b) Both specific information and ability to make judgments involving a thorough understanding of the subject matter of the course are tested.

"(c) Thoroughness; information or judgment called for is specific in all cases, making vague generalizing impossible.

"(d) Comprehensiveness; no student can complain that the examiner hit upon his weak points only. The entire range of the course is covered.

"(e) Reliability; the above features make one more confident that a just estimate of the student's achievement is made than heretofore."

A. G. D., Instructor in Government.

(5) "An important question, however, is whether it will not be possible to conduct a part of the examination by the psychological method and part by the old method. The practical results of the recent examination seem to indicate that we can. In the cases of fully 90% of the men recently examined in II-A, although their papers were marked quite independently, the same result was reached in the new type part and in the old type part; and in the case of

the remaining ten per cent. or less, I think the variation in the marks may be explained without throwing much doubt on the value of the psychological method as a mere test for ascertaining whether men have done their work sufficiently to receive credit from the University for it."

H. F. S., Dean of the Law School,
Columbia University.

RESPONSES OF FACULTY MEMBERS TO QUESTIONNAIRE

X. Do you feel that the traditional prose examination alone is an adequate medium through which a student can express his knowledge of the law and ability to think effectively in legal matters, and through which the professor can perceive accurately the presence in differing degrees of the complex phenomenon which we call "knowledge of and ability to think in the materials of good legal practice"?

1. I think the traditional method of examination, used with discrimination, care and fidelity by the instructor, is an effective method of examination. Of course, since law is not a mathematical science, this method cannot be mathematically accurate. Nor do I believe any other method can be mathematically accurate, because the value which is placed on a law student's performance must, after all, be a matter of judgment. The present method, however, is extraordinarily burdensome to the instructor, and in some instances may not cover as wide a range as the psychological method.

2. No.

3. I feel that the "traditional prose examination," as has been employed in Columbia Law School during the past eight years, is the best method yet devised for forming an estimate of the student's ability to think effectively and give expression to his thoughts concerning legal matters. I do not feel that this type of examination is a very satisfactory way of arriving at the student's information of the subject as a whole. I am inclined to believe that a combination of the present essay type of examination and a different type, aimed principally at valuing the student's information, would be an improvement.

4. Yes. But note: (a) The small number of questions involves a luck element, so far as information is concerned; (b) the man who cannot write clear English is handicapped; so he will be in practice, too.

5. No; principally because I am unable to get a sufficient number of reactions from the students.

6. Yes; if there are only a few books, say 15 or 20, and plenty of time to read them, say an hour on each book. No; under other circumstances.

7. Yes.

XI. How many three-hour final examination papers can you read carefully per hour? How many hours per year do you spend reading papers?

1. At the beginning of reading a given set of papers, it is not possible to read more than seven or eight per hour at the outside. Later on this may be speeded up a little, so that perhaps ten or eleven papers an hour may be read. Last year I read about one thousand papers.

2. Four to six. About one hundred hours.

3. Four per hour; in some subjects, five per hour.

4. Three to four. Counting deficiencies in September and re-reading, about one hundred and sixty hours.

5. Four per hour. Between eighty and one hundred hours.

6. Two carefully; actually between two and six per hour. I read nearly 500 blue books each year.

7. Seven, sometimes ten, per hour.

XII. If you should give two of your usual examinations to the same group of students at the end of the course, what per cent. of the students would receive grades on the two examinations which differed by more than 3%; more than 5%; more than 10%?

1. I am not certain that I understand this question. If it means that two separate papers on the same subject should be given to the same students, then I do not think I can answer the question, as I never tried the experiment. There would, of course, be some variation, due first to variation in the intellectual process of the instructor in marking the answer. There would be more variation also because of the student's having more knowledge with respect to the particular questions of one paper than another. I have had occasion a good many times in years past, to regrade papers, and my experience has been that while there has been a slight variation in the mathematical percentage, it is very rarely that I have found any occasion for changing the letter grade.

2. I do not know. Probably most of them would vary upwards of 3%. Probably half of them would vary upwards of 5%. Probably few of them would vary upwards of 10%.

3. I am inclined to believe that, if both papers were given to the same class, the variation in marks would not exceed 3%.

4. More than 3%, 80%; more than 5%, 10%; more than 10%, 2%.

5. More than 3%, 25%; more than 5%, 15%; more than 10%, 5%.

6. All would differ more than 10%.

7. It is not unusual for a student to get C on one examination and A or B on another; but this does not in my opinion indicate that the present method of examination is not an adequate means of testing the student's knowledge and capacity to think.

7. *Some Objections Considered.*—The foregoing opinions, based upon extensive and carefully conducted experiments, would seem to make it unnecessary or gratuitous to refer to the objections which a few educational critics have brought out against the use of the new-type examinations in law schools. It is with no desire to stir up controversy that the attempt is here made to review some of these objections in the light of the facts as far as we know them; for, while it seems clear that most of these objections rest almost entirely on a priori considerations and traditions which have been accepted uncritically, it is equally clear that they are offered by men who are genuinely and sincerely interested in education and who are unwilling to indorse innovations, the effects of which, in their opinion, may be not only questionable, but exceedingly dan-

gerous and incompatible with the highest educational ideals. The majority of the objections that have come to the attention of the writer are against a hasty and exclusive adoption and not against a fair experimental trial of the new-type examinations.

If such a fair trial should indicate that the new-type examinations could in any way contribute to the accuracy and significance of law school grades without offending our ideals and final goals in education, those who now object would welcome their use no less than the friends of the new-type examinations.

The objections of a Columbia law student in a letter addressed to Dean Stone are so representative that a discussion of them will, perhaps, be more effective than a consideration of general principles in the abstract would be at this point. Most of this student's objections are really warnings against certain weaknesses to which some of the new-type questions are subject. They are worthy of the most careful attention of those who use such examinations. They may be stated as six propositions, and will be discussed seriatim:

(a) The answering of every true-false question depends largely upon the interpretation of the language in the question.

He might have said that "the answer to each question depends *entirely* and *absolutely* upon the interpretation of the language used in the question." Of course, this is not an objection to the requirement that students should be able to interpret language, because most of a lawyer's life is spent in directly or indirectly interpreting language; it is really a warning against the use of *ambiguous* language in questions to which the student must give a categorical *yes* or *no*. The first rule that experts teach us in connection with true-false examinations is that *ambiguity* of every sort *must* be avoided; each and every statement in a true-false test *must be clearly true or clearly false*. No one more than the writer would rebel at being forced to say *yes* or *no* to ambiguous questions, but if the statements *are* either true or false the student who can think them

through will answer correctly and the one who cannot will answer wrongly or not at all.

"To force a student to answer a question, without allowing him to show what the question means to him, is, in my opinion, most unfair." If the student does not interpret the meaning correctly and exactly, he ought to be penalized, and it would do no one any particular good to allow him to explain his incorrect interpretation. With more seriousness than might appear, we can say that a test should allow the student just as much emotional relief as possible; to be prevented from explaining in detail an incorrect interpretation of a perfectly clear statement (or, for that matter, a correct interpretation) is a limitation on instinctive tendencies, not to say individual liberty, from which all students suffer, to a greater or lesser degree, no matter what form of examination they are obliged to take. It is enough to ask of a three-hour examination that it give reliable estimate of students' ability to interpret legal statements, without adding the task of giving them opportunity to express all the emotional concomitants of intellection. The whole question really resolves to this: Can any statements be made which are perfectly decisive and unambiguous, and which involve a legal point or points of sufficient importance to be made the basis of law school grades? We believe that the facts presented above warrant a categorical affirmative.

(b) The psychological examination puts a premium on superficial knowledge.

The new-type examination can be made to test "superficial knowledge" more easily than the deeper mental processes involved in organizing and applying such knowledge, but it can be made to test thinking ability. I agree with our critic that the new type "piecemeal" test *looks* as though it *could not* measure anything but "isolated and superficial 'bits of' mere information"; but it does measure reasoning ability somehow, and does it more reliably than the traditional examinations. "Like the British Constitution, it ought not to work, but it

does." One of the reasons why it does not look as though it could test the higher processes is that it is so different in appearance from the essay examination, which by long use (and to be candid, misuse) has come to be accepted as a perfect mirror of all that is desirable in education. Another reason is that we have, in our popular newspaper psychology, too long made the abstraction "reasoning ability" into an austere goddess who keeps herself carefully apart from the demon "mere information."

Judging from the frequent and ubiquitous scurrilous remarks made about "superficial knowledge," "mere information," "bits of knowledge," "isolated facts," one would almost think that a man of wide and inclusive knowledge would be unsafe in modern schools. In the words of Professor Bagley, if this feeling continues to grow as it has in the last ten years, it will soon come about that students will be able to get facts only through bootleg channels. The fact is that one is not supposed to think without facts. Some who are so violently opposed to mere facts and equally violently attached to "reasoning ability" have already given sad exhibitions of their worship of the latter to the nearly complete exclusion of the former. To have a large fund of facts is not a handicap but an advantage in productive thinking in any field of study; it is a prerequisite to useful thinking.²²

Our critic believes that the new-type test involves only "snap judgments"; and in discussing this lamentable belief, he quotes an illustration used by Professor T. R. Powell in another connection: "If I ask an astronomer a question about international law, the chances are he immediately will give me a decisive answer; but, if I ask him a question about astronomy, he will probably refuse to make anything but a qualified reply, and will be very slow about doing even that." I do not know how long he has studied the science of mental and social measurement, or on what experimental grounds he bases his decisive condemnation of new-type tests; but those who

²² Id. chapter VII.

advocate them do so only with many qualifications and warnings as to pitfalls, and then only after years of experimental research and the confirming experience of many teachers in many departments of learning. (See the opinions quoted.)

(c) The psychological type of examination precludes answers based upon any originality of thought.

If our critic had said that the new-type examination does not lend itself to testing original thinking in *certain types* of legal problems, such as Dean Stone's special theories on the transmission of funds, resulting trusts, and the torts of trustees, I should be inclined for the present to agree with him. But the facts presented above convince me that there are very large areas of original legal thinking that can be tested by the new method. The testimony of many students who took the new-type law examinations convinces me that the vast majority of the questions were answered only after what they called "intense thinking," and after very careful and searching study of the facts given. They said unanimously that the form of these questions showed them, as nothing else ever had, the necessity for appreciating the exact meanings of words and phrases. The fact that the new-type questions call only for the results of thinking, and do not force or permit the student to record the detailed steps of reasoning by which he arrived at those results, does not mean that there was no thinking. If anything, it means that more opportunity is given for thought because so little time is required for recording the responses. That there are legal problems in the solution of which the highest forms of original thinking can be tested by the new-type examination is evidenced by the bonus bond problem in the examination illustrated —. In this connection Dean Stone writes:

"The psychological examination is more easily applied to superficial knowledge. But certainly the answers to the bonus bond problem in the new-type part of the examination could not be made by one having a mere superficial

knowledge. Nor do I think the psychological examination need necessarily preclude originality of thought. For example, questions based on the bonus bond problem above referred to had some very interesting omissions; if filled in, these omissions would have suggested answers. Being left out, the student could not answer all questions which were actually asked without considering the problems which were left out, and this would tend to show whether he had originality of thought and was able to see the point when it was not actually expressed."

(d) The marking is such a mechanical proposition that it can be delegated to some one else to do, thus relieving the professor for more important work. Upon examination, this seems to me more of a disadvantage than an advantage. Probably the greatest fault of the Columbia Law School to-day is that the professors have lost touch with the individual student, because the classes are so large that it has become impractical for the professor to devote much time to the individual. Heretofore, however, there has been one time during the year when the professor could meet the mind of every one of his students—on the *examination paper*.

Here our critic is objecting to an *exclusive* use of the new-type examination, and if any one should advocate such an exclusive use, I should join him in protesting. There are many reasons why we cannot dispense with the essay examination in law courses, in spite of its weaknesses. Since we agree on the fundamental issue here, I am reluctant to draw attention to anything upon which we do not agree; but it seems to me that in asserting a meeting by the professor of "the mind of every one of his students on the (essay) examination paper," the critic is as extravagant in his flattery of the magical powers of the essay examination as he is unkind to "every one" of the professor's students. By what warrant does he make the unreserved assertion that in the products of three hours of high-speed writing the professor "meets the mind" of the student? There is much evidence to the

contrary. If space permitted we could mention many instances in which the mind that one professor met in a given examination was of F caliber and that which another professor met in the same identical paper was of A caliber. We could mention literally thousands of instances of differences of one or two grades.²¹

There is fairly strong evidence indicating that a one-hour essay written on one or two problems chosen from four to five alternatives does have considerable efficacy as a revelation of the quality of mind of a student. In the usual essay examination, the attempt has been made (in spite of the low estimate of the value of information) to measure breadth of information as well as reasoning ability, with the result that, in order to cover the required number of problems in the time limits, the student has been forced to think hastily and record snap judgments at a rate which would insult the deliberation of the bench even in wartime military tribunals. Would not the retention in final law examinations of a one-hour essay examination in which the student is allowed sufficient time for sure deliberation and weighing of arguments pro and con, coupled with a new-type examination designed to test breadth of information and capacity to make judgments which can be expressed by a categorical *yes* or *no*, or in some other objective manner, meet this objection satisfactorily?

(e) It is also urged by the proponents of the psychological law examination system that this system gets from the student many more reactions than are possible under the old system. With this viewpoint I take issue, because it seems to me that under the old system every sentence written by the student was a reaction of one type or another. Under the psychological examination, there may be reactions to more points, but in adding to the quantity of reactions to points, it seems to me that the system has sacrificed altogether the quality of such reactions.

This objection has already been answered above. Every sentence written by the student in the old-type examination is a reaction of one type or another, but their merits can be judged only subjectively, and no two professors would agree in rating them. The new-type questions, if carefully prepared, are not only perfectly objective, but will furnish opportunities for reactions to legal points which are more important than those which will occur to the student during an examination period, and which are also more equably distributed over the whole field of the course, thus insuring a more adequate sampling of both materials and reactions.

(f) In any given question, when a plus or minus is put before a question, it is impossible to tell whether: (1) The question has been misread by the student. (2) Whether he is applying the rule of a case with slightly different facts. (3) Whether he is putting down the minority of authority by mistake for the weight of authority. (4) Whether he has forgotten the weight of authority but has his own reasons for answering the question the way he has. (5) Whether he is just guessing.

The first four points made by our critic in this objection are answered by Dean Stone: "With reference to your sixth objection, I think I ought to call your attention to the fact that it is part of the training of a lawyer not to misread the document or question in applying a rule, not to rely on facts not stated or involved in the case before him, not to mistake minority authority for the weight of authority. A common fault of students writing examination papers under the old system is that they write a treatise, but do not answer the question."

The fifth and last point is a case of the astronomer deciding a question of international law with unhappy haste. Whatever other weaknesses may be charged to the true-false test, it circumvents guessing much better than the essay examination does. The method of scoring the plus and minus test is expressed by the equation $S = (R - W)$, in

²¹ See Starch, *Educational Psychology* (1920). Cf. esp. last chapter.

which S stands for score, R for the number of correct responses and W for the number of incorrect responses. Thus, if a man guesses on every question in a set of 200, he will by mere luck or chance get 100 correct and 100 wrong. $100-100=0$. If he knows 100, marks them correct, and guesses on the other 100, he will in all have 150 correct and 50 incorrect responses. $150-50=100$, which is his just score. It is true that in rare cases pure luck may so far favor the guesser as to give him a slight margin of 5 or 6 points correct in excess of incorrect responses; but these would be very rare, and in any case small in comparison with the total possible score in a paper of 200 questions, and always much smaller than the extreme errors of subjectivity in scoring the essay examination. Twenty skeptical instructors tried to secure high scores by "pure guessing" on a new-type test given to 500 men in Columbia College. The test contained 159 questions; the "guess" scores ranged from -11 to $+9$; the lowest score secured by the freshmen was 29, which was a low F.

Our critic further says: "After all, the reaction, whether favorable or unfavorable as to a given question, is not, in my opinion, the most important thing relative to that question. It is the reasoning, the state of mind, the conception as to the law, which is important." I would heartily agree if he would say that the process by which conclusions are reached is an important element, but I believe that all fair judges would admit that the correctness or incorrectness of conclusions should form quite an important consideration in estimating the merits of a line of reasoning. I am not inclined to insist too strongly on the ancient dictum that a tree is known by its fruit at any one time, or on any one branch; but if we desire fruit, and a tree persistently fails to give it, we should be obliged to give it a zero mark on fruit bearing, whether we had a record of its fruitless processes or not. Similarly, if a tree produced fruit (in the form of correct conclusions) on every branch (of the law brought into view), we should be compelled to give

a high mark, regardless of any heretical reasoning innovations which a complete analysis or record of its processes might reveal. Would not the combination of new and old type examinations suggested above meet this objection?

RECOMMENDATIONS

A. The examinations in the majority of law courses, especially in those having classes of over 60 students, should include both old and new type questions. The division of time which has been found most advantageous allows one hour to the essay questions and two hours to the objective part of the examination. The essay part should permit the students to write on one, or at most two, problem questions chosen by the student from four or five alternatives. This would set the essay type of examination free from its usual double task and would leave it unhampered to measure that which it is most apt to measure: cogency of expression, organizing acumen, reasoning ability. The new-type part should include not less than 150 and not more than 250 objective questions designed to show information, judgment and appreciation of significant relationships in a broad sampling of the materials of the course. These questions would necessarily be made up with great care, so as to reduce ambiguities and other faults, to a minimum.²² The essay part should be scored, as heretofore, by the professor; the best results have been achieved by the custom of marking papers on a numerical scale, one question at a time. The new-type part should be scored by clerks. Mechanical errors of an arithmetical sort can be guarded against only by checking all counts and operations. This and the statistical work involved in transmuting scores into letter grades can be done safely only under the immediate and regular supervision of some one who has had considerable training in mental measurement and statistics.

Through the double-type examination,

²² For principles underlying the construction of good questions, see *op. cit.* footnote 1, chapter VII.

objectivity and reliability are insured at once. Comparability of standards may be secured in two ways:

(1) In courses the contents of which are characterized by relatively stable material, equivalent examinations can be constructed by taking random sets of 200 questions each year from a list of 2,000 previously prepared. It is recommended, therefore, that in each such course, 2,000 objective questions be prepared as soon as possible, thus securing the necessary raw material for equivalent examinations for 8 or 10 years to come. The changing elements in courses can be tested by the usual essay type of examinations, which can be rendered comparable from year to year through the intermediation of the objective examinations. The process of intermediation is a simple one, and can be carried through easily by any one who has had an elementary course in statistics and mental measurement.

(2) The second way of securing comparable measures is through the intermediation of the standardized intelligence examination.

B. For this and other reasons, it is recommended that a standard intelligence examination be made a regular part of the admission machinery of the Law School, and that a personnel bureau be established in the office of the Dean of the Law School, the functions of which would be (a) to collect and keep up to date in convenient form all relevant information on each law student; (b) to relieve the teaching staff of all mechanical details connected with examinations, particularly the scoring of the new-type tests and the transmutation of their scores into letter grades; (c) to carry out statistical studies and researches in methods and instruments of personnel selection and of educational measurement under the direction of the faculty of the Law School and with the co-operation of the Bureau of Collegiate Educational Research in Columbia College.

In conclusion, the writer wishes to acknowledge the indispensable part taken in the study by members of the faculty, particularly by Dean Stone and Professors Oliphant and Richard Powell.

Admission to the Bar

A Synopsis of the Present Requirements for Admission in the States and Territories of the United States

By A. M. HENDRICKSON

Librarian, West Publishing Company

SINCE the passage of the resolutions of the American Bar Association, in September, 1921, which were followed up by the Washington Conference, of February, 1922, a great deal has been accomplished in raising the standards of legal education. The present standards in many of the law schools are ahead of the requirements in their respective states, but the requirements for preliminary education have been raised by several states recently, notably Illinois. Other states are expected to join in the movement before long.

A complete statement of the rules for admission to the bar in the various states, as of January 1, 1924, is contained in the latest edition of the booklet entitled "Rules for

Admission to the Bar," published by the West Publishing Company, St. Paul, Minnesota.

Believing that a bird's-eye view of the requirements in the various states will prove interesting, an analysis has been made of the rules for admission to the Bar, as they exist to-day. This analysis is given below. A synopsis of the rules for admission in January, 1922, was published in the American Law School Review for May, 1922 (Vol. IV, No. 14), which may be consulted for purposes of comparison.

The reader should bear in mind that the requirements of the various jurisdictions are liable to change at any time, and, in view of the frequent possibility of revision, the com-

plete accuracy of the information given in the following analysis or in the "Rules for Admission to the Bar" cannot be guaranteed. It is believed, however, that the information here summarized from the "Rules for Admission to the Bar" is an accurate statement of the requirements as of January 1, 1924.

CITIZENSHIP

The rules as to citizenship are now more rigid in many of the states, in that the declaration of intention to become a citizen is not sufficient. In the majority of the states actual, bona fide citizenship is required. An examination of the statutes and regulations seems to disclose no express requirements as to actual citizenship in the states of Florida, Iowa, Missouri, New Hampshire, North Carolina, North Dakota, South Carolina, South Dakota, Texas, Vermont, Virginia, and West Virginia. In all of these states, however, the statutes require persons admitted to the bar to take an oath to support the Constitutions of the United States and of the state, and it would seem that this requirement implies that citizenship of the United States is one of the qualifications of an attorney. Actual citizenship seems to be required in the other states, with the exception of Idaho, Massachusetts, New Mexico, Oregon, and Wisconsin, in which states it appears that the bona fide declaration of intention to become a citizen qualifies the applicant, provided the other general qualifications are adequate. In Georgia, aliens who have been two years resident in the state, and have declared their intention to become citizens pursuant to the act of Congress, are eligible to admission. In Louisiana the applicant for admission must be a citizen, or must have filed his declaration of becoming such, at least two years prior to his application. In Maryland the application must state the facts as to whether applicant was born in the United States, and, if not born in the United States, whether he or his parents, or either of them, have been naturalized, and, if so, the court granting such naturalization and the date thereof.

RESIDENCE

An almost universal requirement is that of actual residence in the state, whether applicant seeks admission through the regular legal examination, on diploma from a law school within or without the state, or by virtue of admission and practice in another jurisdiction. In some states, however, actual residence does not seem to be required under the express terms of the statutes or rules. In Arizona, the requirements of actual residence do not seem to extend to reputable attorneys of at least three years' standing in another state. In Connecticut, actual residence, or proof of intention to become a resident, is required of attorneys from other

jurisdictions. The comity provision seems to prevail in the District of Columbia, whereby an attorney who, while a nonresident of the District, was admitted to practice in another state, may, in the absence of disqualification as to actual fitness, be admitted without becoming a resident, if attorneys of the District of Columbia are admitted on the same terms in the state from which he comes. The statutes and rules of Florida do not seem to require residence in the state as a prerequisite to admission, and the statutes and rules of the territory of Hawaii seem also silent upon the subject. So, also, an examination of the statutes and the rules of the State Board of Bar Examiners of Massachusetts does not seem to disclose any express requirement as to residence, but no person who does not intend to practice as an attorney within the commonwealth is entitled to take the examination for admission. In Michigan, attorneys from other states, proving that they intend to maintain a law office and to practice in the state, may, it seems, be permitted to practice without actual residence. Ohio requires actual residence of one year within the state, except in the case of attorneys admitted from other states, of whom it is required that they be residents or intend to become so. In Utah there seems to be no express requirement as to actual residence within the state.

AGE OF MAJORITY

It is quite generally required that one seeking admission to the bar be of the age of majority. In Alabama, however, minors may be licensed after fulfilling the other requirements, if deemed by the court of sufficient maturity, character, and attainments. The statutes and rules of Georgia disclose no express requirement on the subject, nor do the statutes of Hawaii, except that in the latter instance the applicant must set forth his age as a part of his petition. The same situation seems to be true of Kansas, except that the place and date of birth must be given as a part of the petition. In North Carolina the applicant must have attained the age of 21 years, or show that he will arrive at that age before the next examination.

GOOD MORAL CHARACTER

Good moral character is, of course, a requirement practically universal. The modes of proof of good moral character are, however, by no means uniform in the several jurisdictions of the United States. To analyze them all would be too lengthy a task here, and it is suggested that persons in doubt as to the mode of proof required in particular jurisdictions read the requirements as summarized in the "Rules for Admission to the Bar," a copy of which may be obtained as noted in the first paragraph of this article. In North Carolina the Su-

preme Court has decided (55 S. E. 625) that one who complies with the formal requirements prescribed by the statute is entitled to become an applicant and to be examined, and, if he shows himself to have competent knowledge, it is the duty of the court to license him without investigating his general moral character.

GENERAL EDUCATION PRELIMINARY TO LEGAL STUDY

While in practically every jurisdiction proof of preliminary education, other than legal, is required, there is considerable lack of uniformity in the several jurisdictions, both as to the nature and extent of the preliminary education and as to the means by which it may be established. A brief note of the requirements in each jurisdiction follows.

Alabama. No fixed term, but applicant is required to pass an examination under the direction of the chancery, city, or circuit court in the county of his residence.

Alaska. No express requirements.

Arizona. Applicant is required to state the place and character of scholastic or general education.

Arkansas. No express requirements.

California. No express requirements.

Colorado. Graduation from approved high or preparatory school, admission as regular student in approved college or university, or examination before state superintendent of public instruction in equivalent subjects.

Connecticut. Graduation from approved, high school, college, or preparatory school, admission to approved college or law school, or examination before committee.

Delaware. Graduation from an approved college or university, or examination before Board of Examiners on prescribed subjects.

District of Columbia. No express requirements.

Florida. No express requirements.

Georgia. No express requirements.

Hawaii. No express requirements.

Idaho. Certificate of at least two attorneys of the Supreme Court of four years' regular practice or more, stating that they have examined applicant touching his general educational equipment, from which examination it appears to them that his educational qualifications are equivalent to those required by reason of having completed a standard high school course, or, in lieu thereof, exhibition of diploma from Law Department of the University of Idaho, as evidence of requisite educational qualifications.

Illinois. Completion of four-year high school course, on the part of one beginning the study of law prior to July 1, 1924. After July 1, 1924, diploma showing graduation from an approved four-year high or other preparatory school, whose graduates are admitted on such diploma to the freshman

class of any college or university where requirements for admission are equal to those required by the University of Illinois, and a certificate of a member of a college or university accredited by the Board of Law Examiners showing completion of at least seventy-two weeks of general college work, or, in lieu of such certificate, examination before the Board of Law Examiners in an equivalent course of studies. The high school education or its equivalent shall be completed before the college studies begin, and the college education or its equivalent shall be completed before the law studies begin: Provided, that as to applicants who begin the study of law after July 1, 1924, and prior to July 1, 1926, only thirty-six weeks of college study or its equivalent shall be required.

Indiana. No express requirements.

Iowa. General education equal to that involved in the completion of a high school course of at least four years' duration. In the absence of proof of such educational qualifications, applicant shall be subject to written tests before the Board of Examiners on equivalent subjects.

Kansas. General education substantially equivalent to that acquired in a standard four-year course of an accredited high school. Applicants for the examinations of June, 1924, and January, 1925, must show in addition the equivalent of one year's study in a general college course, and those for examinations subsequent thereto of two years' study in a general college course. A diploma or certificate showing graduation from the State University, or other accredited university, college, or high school is accepted as evidence of the requisite educational qualifications.

Kentucky. No express requirements, but applicant is required to include in his application statements of his preliminary education.

Louisiana. High school education or its equivalent.

Maine. No express requirements.

Maryland. Graduation from university, college, high school, or other school having a course substantially equivalent to a high school education in Maryland, or examination by State Board of Law Examiners on equivalent subjects.

Massachusetts. Graduation from a college, or compliance with the entrance requirements of a college, or fulfillment for two years of the requirements of a day or evening high school or of a school of equal grade, or proof of equivalent education. An applicant having studied law for three years may take the regular law examination, leaving for future consideration the question of his general educational qualifications.

Michigan. Proof of general education equivalent to that involved in the completion of a four-year high school course.

Minnesota. Diploma from four-year high school, or proof of mental training and education needed creditably to enter the practice of law.

Mississippi. High school education or its equivalent.

Missouri. Proof of preliminary education equivalent to that obtained through a common or grammar school course of study, and possession of a fair knowledge of civil government, American and English literature, general history, and American and English constitutional history. Proof may be made by exhibiting the diploma of any university or college in good standing, or diploma of a high school whose graduates are permitted to matriculate at a state university without examination, or by affidavit of the principal or teachers of a high school under whom applicant has studied, or by diploma from any academy or preparatory school whose course of study has been passed upon and accepted by the Board of Law Examiners.

Montana. Satisfactory evidence of general educational qualifications required for entrance to the State University and in addition evidence of two years' work in a university or college of recognized standing, or the equivalent.

Nebraska. Proof, either by school, college, or teacher's certificate or diploma, or through examination before the Bar Commission, of general education involved in the completion of the first three years of a high school course accredited by the state department of public instruction.

Nevada. No express requirements.

New Hampshire. No express requirements.

New Jersey. At least three years before taking the bar examination the applicant must have passed his final examination for graduation in a college, university, public high school, or private school approved by the Board of Examiners, or an equivalent examination to be held by officers of the public schools under the supervision of the State Board of Instruction.

New Mexico. No express requirements.

New York. Applicants who are not graduates of colleges of good standing, or attorneys admitted in other states, are required to undergo an examination under the authority of the State University in English, three years; mathematics, two years; Latin two years; science, one year; history, two years; or in their substantial equivalents.

North Carolina. No express requirements.

North Dakota. No express requirements.

Ohio. A preliminary education, other than legal, equivalent to that received in a first grade public high school of the state, is necessary before beginning the study of law.

Oklahoma. Educational attainments must be equivalent to those indicated by the completion of the course of study in the public high schools of the state.

Oregon. Certificate showing that applicant

is a graduate of some college, high school, or other literary institution, of approved standing, or examination before the Board of Examiners.

Pennsylvania. Academic degree from an approved college or university, or examination before State Board of Law Examiners.

Philippine Islands. Applicant must file with the clerk of the Supreme Court a certificate showing that he has satisfied the Secretary of Public Instruction that before beginning the study of law he had graduated from a government high school or has completed a course of studies identical with or equivalent to that prescribed for graduation in the government high schools.

Porto Rico. No express requirements.

Rhode Island. Before commencing the study of law, the candidate must have received an education equivalent to that received in a high school of one of the cities of the state.

South Carolina. The Board of Examiners requires proof in writing, by examination, or otherwise, that applicant has had a preliminary general education equivalent to that of a graduate of a high school of this state.

South Dakota. General education substantially equivalent to that involved in the completion of a high school course of study of at least four years in extent.

Tennessee. Course of legal study must have been preceded by at least a high school education or its equivalent.

Texas. No rigid test prescribed; but, as a fair general education is necessary for the performance of the duties of an attorney, the attainments of the applicant in this regard should, in a reasonable measure, correspond to the extent of legal education required.

Utah. While no particular term of general study is expressly required, the applicant should state in detail schools attended, time of attendance, date of graduation and degrees, etc., and, if a graduate, attach to his petition a certificate from the school from which he graduated. If not a graduate of a high school, college or university, he should attach to his application credits of any school which he has attended or a statement from his private instructor, if any.

Vermont. Proof of senior high school education or its equivalent.

Virginia. No express requirements.

Washington. Proof of general education sufficient to entitle applicant to enter the freshman class of the University of Washington or of the State College of Washington, except its elementary science department.

West Virginia. Preliminary academic education equal to that required for graduation from a high school of the first class in West Virginia, which may be evidenced by a diploma of graduation from such school or by a certificate showing equivalent credits from

any other school whose credits would be accepted for admission to West Virginia University, or by passing an examination on equivalent subjects.

Wisconsin. Graduates of the State University, or of a college, normal school, or academy of the state, or of a free high school of the state, having a four years' course of study or of an approved university, college, normal school, academy, or other school of another state, are exempt from preliminary examination upon production of certificate of graduation. All other persons must produce evidence of general educational qualifications, other than attendance, required for graduation from a free high school of Wisconsin having a four years' course of study.

Wyoming. The petition of the applicant must state his general educational advantages exclusive of legal study.

PERIOD OF LEGAL STUDY

Like the qualifications as to preliminary education, the term of legal study and the character thereof varies in the different jurisdictions. All that is here attempted to be summarized is the period of legal study in the several states, and, in general the manner in which it is to be pursued. To go into the general course of study required in each state would entail the expenditure of an undue amount of space. Where nothing is here said as to the manner in which the study of law is required to be pursued, it is because the rules or statutes of the state in question are silent on the subject.

Alabama. Eighteen months.

Alaska. At least two years in the office of a reputable attorney or in an accredited law school.

Arizona. No definite period of law study now required.

Arkansas. No express requirements found.

California. Three years in a regular day law school, or four years in a night school.

Colorado. Regular clerkship in office of a practicing attorney or judge of court of record of Colorado, or in an approved law school. Duration of study period is three years, and may be apportioned between the two modes of study.

Connecticut. Three years, after the age of 18, in an approved law school, or in an office under the supervision of a practicing attorney, or both, provided that at least one year must be spent in Connecticut, except in the case of law school graduates who are residents of the state or intend to become residents.

Delaware. Three years in the office of a practicing attorney of ten years' standing.

District of Columbia. At least three years under the direction of a competent attorney, provided that study in an approved law school shall, to the extent thereof, be computed as a part thereof.

Florida. No definite period of study required, but study of certain law books prescribed.

Georgia. No express requirements.

Hawaii. Graduation from approved law school, or at least three years' study in such law school, or in the office of one or more attorneys, or partly under one method and partly under the other, for a total period of three years.

Idaho. Applicant must submit a certificate from two attorneys of the Supreme Court, in good standing and active practice for not less than four years next theretofore, containing statements as to his qualifications in point of learning in the law, time spent in legal study, and place at which and person under whom such study was prosecuted.

Illinois. Three years in an approved law school, or under the tuition of one or more licensed lawyers, a portion of the time under either system being allowable. For those beginning the study of law after July 1, 1924, proof of legal education shall be made (a) by a certificate from an established law school (or law schools) accredited by the Board of Law Examiners, showing that the applicant has pursued a course of law studies in such law school (or law schools) of at least 1,200 classroom hours covering a period of not less than three years, and has passed a satisfactory examination in each of the law studies required for graduation by such law school (or law schools), which shall include the law subjects required by the Board of Law Examiners, provided the board shall not give credit for more than 432 classroom hours in any one year; or (b) by showing that the applicant has in good faith, while actually engaged in the office and under the personal tuition of a licensed attorney (or attorneys) in active practice, pursued for a period of four years, during at least thirty-six weeks in each year, a course of law studies to be prescribed by the Board of Law Examiners as the equivalent of such law school course. Such applicant shall submit to and satisfactorily pass an examination by the Board of Law Examiners once each year during the first three years of such law office study. (c) If an applicant pursues his course of law studies partly in such accredited law school and partly under the tuition of such licensed attorney (or attorneys) he shall be allowed credit for studies in such law school upon presentation of a certificate therefrom showing the studies he has taken therein by personal attendance and that he has satisfactorily passed examinations in such studies, such certificate showing the number of classroom hours and the number of weeks of law study pursued by such applicant in such law school. He shall be allowed credit for such studies as he pursues under the tuition of a licensed attorney (or attorneys) when proof is made as provided in clause (b) above. Such an applicant shall pursue

his law studies for a period of four years during at least thirty-six weeks in each year.

Indiana. No express requirements.

Iowa. Three years in the office of a practicing attorney or of a judge of a court of record of this or another state, or in a reputable law school, or partly in an office and partly in a law school.

Kansas. Three years in the office of a practicing attorney, or graduation from the Law Department of the University of Kansas, or some other law school of equal requirements and reputation. While the statutes and rules do not expressly state that the law study must be in the office of a practicing attorney of Kansas, that seems to be the implication.

Kentucky. Two years in a law school, or in the office of a practicing attorney, or partly under one method and partly under the other.

Louisiana. Three years under the direction of a respectable member of the bar of Louisiana, provided that time spent as a student in the Law Schools of Tulane University of Louisiana, Louisiana State University and Agricultural and Mechanical College, and Loyola University may be counted as a part of said study, and provided, also, that a graduate of a law school of the highest class in any state may be exempted from the three-year study within Louisiana.

Maine. Three years in the office of a practicing attorney or in a recognized law school.

Maryland. Three years in the office of an attorney of this state or in a law school of the United States.

Massachusetts. Three years in an approved day law school, or four years in a night school, or three years in the office of an attorney or elsewhere under proper direction. The period of study may be apportioned between the two modes.

Michigan. Three years in a duly incorporated college or university in this or another state, or four years in a law office under the supervision of a reputable attorney.

Minnesota. Three years, within the four years preceding application for admission, in an accredited law school of Minnesota, or in the office of a resident attorney, or both.

Mississippi. No express requirements as to period or manner of legal study, but a thorough test on prescribed subjects is given by the Board of Law Examiners.

Missouri. No particular period of study, but no person will be admitted to the examination unless he be a graduate of a reputable law school, or has carefully studied at least one standard, unabridged text-book on subjects prescribed by the Board of Law Examiners.

Montana. Petition must contain a certificate of two reputable lawyers of this state (or the affidavits of two nonresident attorneys) that applicant has studied law for

two successive years prior to the time of making application.

Nebraska. Three years in a reputable law school, or in the office of a practicing attorney, or partly in one and partly in the other. At least one year of the office study must be in a law office of the state.

Nevada. No particular requirements as to period of study, but petition of applicant must state the nature and extent of his legal education.

New Hampshire. Three years in the office of a member of the bar in good standing or in a reputable law school.

New Jersey. Regular clerkship with a practicing attorney of the Supreme Court of this state for three years, of which any portion of the time, not exceeding 27 months, may be spent in attendance upon the law lectures in an accredited law school of the United States, or in the study of English law at an institution of established reputation in a country where English is the common language of the people.

New Mexico. Two years in a reputable law school, or in the office of an attorney of this state.

New York. Four years, on the part of any person not a graduate of a college or university, either by serving a clerkship in the office of a practicing attorney after attaining the age of 18, or partly by clerkship and partly by attendance upon a law school; but every person must serve such clerkship for at least one year before examination, or after examination and prior to admission to the bar. The latter provision does not apply to persons who have completed two years in a college or university, and have thereafter attended a law school for four years. Graduates of colleges or universities must have studied for three years, either by clerkship or by attendance upon a law school, and must as a general rule have pursued such study after graduation.

North Carolina. Two years, during the course of which certain prescribed books must have been read. Proof of study may be by certificate of a dean of a law school or a member of the bar of the Supreme Court of North Carolina under whose instruction such study was pursued.

North Dakota. Three years, either in the office of an attorney engaged in active practice in this state or under the direction of a judge of the Supreme Court, district court, or county court having increased jurisdiction in the state, or in a reputable law school in the United States, or partly in an office and partly in a law school. In no case will any person be admitted to examination unless it appears that he has pursued a course of study equivalent to that required of candidates for graduation in the law department of the State University.

Ohio. Three years in a day law school of approved standing, if entire period is spent

in law studies, or four years, if entire time is not spent in the study of law or four years in the office of an attorney in active practice.

Oklahoma. At least two years immediately preceding the filing of application for admission.

Oregon. Three years in the office of a practicing attorney of this state, or in an approved law school requiring at least three years' study.

Pennsylvania. Three years, either by attendance upon a law school offering a three years' course, or partly in a law school and partly in the office of a practicing attorney, or by service of a regular clerkship in the office of a practicing attorney.

Philippine Islands. Four years' study and evidence of having completed all prescribed courses in a law school approved by the Secretary of Public Instruction.

Porto Rico. Diploma from University of Porto Rico, or from any accredited university or law school of the United States where a preparatory course is required for admission, upon presentation of duly authenticated diploma showing personal attendance upon law classes for not less than three years.

Rhode Island. Two years in the office of a practicing attorney, or in a law school and attorney's office, on the part of persons who have received a classical education. Three years on the part of those who have not received a classical education. In either case, six months of such study must be spent in the office of an attorney in this state.

South Carolina. Two years in a law school in the United States, or in the office or under the direction of an attorney of this state.

South Dakota. At least three full years, either in the office of an attorney in this or another state, or of a judge of a court of record, or in a reputable law school in the United States, or partly in an office and partly in a law school.

Tennessee. At least one year in a reputable law school, or in the office of a reputable attorney of at least five years' standing in the Supreme Court of this state.

Texas. At least two years in a course of study prescribed by the Supreme Court.

Utah. At least three years, either in a law school or in the office of an attorney.

Vermont. At least three years in the office of an attorney of the Supreme Court within this state, during the four years preceding the filing of application for admission, provided, that the Supreme Court, upon sufficient cause shown, may allow one year's study in an office outside the state as an equivalent for one year of study in an office within the state; provided, further, that one who has pursued a full three-year course in a law school chartered in any state, or the law department of any college or university so chartered, shall be required to study in a law office in this state for at least six

months within the two years preceding his application; provided, further, that in the case of one who has pursued less than a three-year course of study in such law school the time of such study may be allowed as an equivalent for the same time of study in an office, but the last year of study shall be in an office within the state.

Virginia. Two years.

Washington. Three years in an approved law school, or under the direction of a practicing attorney approved by the board. If in an approved law school, the certificate of the dean or other officer is accepted as proof of completed work. If in a law school not approved by the board, the study must cover at least three years of 30 weeks each, with an average of at least 19 hours' classroom work each week. Students attending night classes must study at least four years of 30 weeks each, with an average of at least 8 hours' class-room work each week. In the latter case the student may, at his option, spend the fourth year in a law office. If the study be in a law office, it must be for at least 30 weeks each year, with a minimum each week of 18 hours, under the personal supervision of the attorney.

West Virginia. Three years in the office and under the direction of an attorney of this or another state, or as a resident student in an approved law school. The period of time may be apportioned between the two modes of study.

Wisconsin. Three years, within the five years next preceding the making of the application. May be carried on in the office of an attorney or in a law school.

Wyoming. Three years, either in or under the supervision of a law school in the United States, or under the supervision of a practicing attorney or judge of this state, or partly under one system and partly under the other.

LEGAL EXAMINATION

The legal examinations in practically all of the states are conducted by boards of examiners or special committees, composed of lawyers of recognized standing and appointed under judicial authority. The examinations, as a very general rule, comprise groups of written questions based upon subjects prescribed by the examining committee or the court. In some instances the written questions are supplemented by oral interrogatories designed to test the applicant's general knowledge and the scope of his study and understanding. In a very few of the states the examinations are still under the personal direction of the court, namely, Florida, Nevada, North Carolina, and South Dakota; but the trend on the part of the legislatures and the courts has been to delegate the powers and duties in this respect to special committees. Fees for examination run as high as \$50, but the average examination fee is

\$10 to \$15. The subjects of examination chosen by the committees of the several states necessarily vary, according to the particular local practice. Lack of space prohibits the setting forth of the legal subjects selected by the different committees, but an attempt to give full information regarding the same has been made in the "Rules for Admission to the Bar," referred to in the first paragraph of this article.

ADMISSION OF ATTORNEYS FROM OTHER JURISDICTIONS

Alabama. Two years' practice. Actual residence in Alabama required, except in foreign jurisdictions permitting attorneys of Alabama to practice without actual residence.

Alaska. Five years' continuous practice immediately preceding filing of application.

Arizona. Three years' active practice immediately preceding filing of application.

Arkansas. Three years' practice. A shorter period of practice is allowed, if the requirements for admission in the foreign jurisdiction are substantially equivalent to those of this state.

California. Three years' actual practice in a sister state or in a foreign country where the common law prevails as a basis.

Colorado. Five years' practice, provided that the requirements of the foreign state or country are equal to those in this state. Proviso does not apply to attorneys of ten years' standing, however.

Connecticut. Proof of admission in foreign state and actual residence therein for at least one year previous to admission. Examination required except in the case of one who has practiced at least three years before the bar of another state.

Delaware. Three years' practice immediately preceding date of application.

District of Columbia. As nearly as possible the same conditions and requirements are imposed upon an applicant from another jurisdiction as would be imposed upon a member of the bar of this District seeking admission to such other jurisdiction.

Florida. Five years' practice next preceding date of application. No examination required, provided that attorneys admitted to practice in this state are admitted without examination in the state from which applicant comes.

Georgia. An attorney, residing in another state, having license to practice law in a circuit court therein, may be admitted to practice in the superior courts of this state, provided attorneys of this state are likewise permitted to practice law in such other state. An attorney of another state, who becomes a resident of this state, may be admitted to practice in the superior courts of the state upon showing his admission and good standing in a court of similar jurisdiction in the state from which he comes, and by submitting to such examination as to the laws

of this state as said judge of the superior court may require, provided the state from which he comes admits by comity upon the same conditions a licensed lawyer of this state. Upon satisfactory evidence in support of their application, attorneys of any of the courts of the United States, or of the highest court of any state or territory, may be admitted to the Supreme Court and the Court of Appeals on taking the prescribed oath.

Hawaii. Three years' practice in another jurisdiction that requires an examination for original admission to the bar.

Idaho. Three years' practice immediately preceding the filing of application.

Illinois. Person applying for admission in this state by virtue of admission in another jurisdiction must present a copy of the requirements in force in the jurisdiction in which he was admitted, from which it must appear that, at the time he was admitted, the requirements were equal to those now prescribed in Illinois, or must show five years' active practice in the foreign jurisdiction.

Indiana. No express general requirements.

Iowa. One year's practice, and, in the discretion of the court, exemption from examination on proof of period of study.

Kansas. Five years' actual practice up to the time of making application. Subject to examination in such manner as the board may determine.

Kentucky. Five years' practice in the highest court of another state or jurisdiction whose jurisprudence is based on the common law, or admission to practice in the highest court of another jurisdiction, where the requirements at the time of admission were as high as those now prescribed in this state. Persons admitted in another jurisdiction, where the qualifications for admission are not equal to those of this state, must have studied law for one year within the state, either in a law office or by attendance upon a law school.

Louisiana. Three years' actual practice.

Maine. Three years' practice. Actual residence not required.

Maryland. Five years' experience as practitioners, judges, or teachers of law.

Massachusetts. Three years' practice.

Michigan. Three years' practice as a principal occupation immediately preceding application, and proof of intention to maintain a law office and to practice in Michigan.

Minnesota. Three years' active practice preceding application. One of less than three years' standing, who has studied law in a law school or in the office of a practicing attorney, may take the regular examination required of persons not attorneys.

Mississippi. At least five years' practice in another state where the requirements are equal to those of this state, provided such other state grants similar privileges to attorneys from Mississippi.

Missouri. Three years' practice.

Montana. Proof of practice in a foreign jurisdiction operating under the common law and where requirements are substantially equivalent to those of this state, or evidence of two years' practice immediately preceding application.

Nebraska. Proof of actual practice in a state having requirements equal to those of this state, or five years' actual practice within the ten years next preceding the date of application.

Nevada. No particular period of practice required, but proof of admission in another jurisdiction where attorneys licensed in Nevada are admitted without examination, provided the foreign jurisdiction must be one which requires examination as a prerequisite to admission and which operates under the common-law system of jurisprudence.

New Hampshire. Three years' practice.

New Jersey. Ten years' active practice.

New Mexico. Three years' practice in a state or territory where the requirements are at least equal to those of New Mexico. Period of practice must have been pursued at least three years prior to filing of application.

New York. Three years' practice in a foreign jurisdiction and one year's law study in New York qualify the applicant for examination. Five years' practice in a foreign jurisdiction whose jurisprudence is based on the common law offer exemption from examination.

North Carolina. Five years' practice in a foreign jurisdiction. Examination not required, if the state from which the applicant comes allows similar privileges to attorneys of this state.

North Dakota. Three years' practice.

Ohio. Three years' study under the tuition of an attorney and admission to the bar or, on the part of one admitted after a shorter period of study, actual practice which, when added to term of study, makes up the three years, qualifies for examination. One admitted in the highest court of another jurisdiction, after a course of study of at least two years, may, upon proof of five years' practice preceding his removal to Ohio, be exempted from examination.

Oklahoma. Ex-judges of state or federal courts, or of the District of Columbia, are admitted without examination. Attorneys admitted on written examination in the highest court of another jurisdiction may be admitted without examination on proof of one year's law practice in the state from which they come. Attorneys of at least five years' standing immediately preceding filing of application may also be admitted without examination.

Oregon. One admitted in the highest court of another jurisdiction where the common law prevails, and who has practiced at least one year, may be admitted here for nine months. If no objection to his admission

is filed within six months, he may be admitted permanently. He need not become a resident of the state, if Oregon attorneys are admitted in his state upon similar terms.

Pennsylvania. At least five years' practice before the highest court of another state. The Board of Examiners may, in its discretion, require an examination of the character provided for all other applicants.

Philippine Islands. Five years' practice in the Supreme Court of the United States, or in any United States Circuit Court of Appeals, Circuit or District Court, or in the highest court of any state or territory, which state or territory by comity confers the same privilege on attorneys admitted in the Philippine Islands, may, in the discretion of the Supreme Court, entitle the applicant to admission.

Porto Rico. Three years' practice in any state or territory of the United States, or in the United States District Court for Porto Rico, including at least one year's practice in Porto Rico, qualify for admission without examination.

Rhode Island. More than three years' practice in another state, and six months' study in the office of an attorney of this state, qualify for examination. Six months' study in this state may be dispensed with in the case of an attorney of ten years' standing in another state.

South Carolina. Five years' experience as practitioners, judges, or teachers of law.

South Dakota. Five years' practice.

Tennessee. Examination not required where requirements for admission are equal to those of Tennessee; otherwise five years' practice required.

Texas. Five years' practice. Graduates of certain named law schools, who have been actively engaged in the practice since graduation, may also be licensed without examination.

Utah. No particular period of practice required.

Vermont. One year's practice, together with six months' residence in the county from which application is made. If applicant has had less than one year's practice, he may be admitted after six months' office study in this state.

Virginia. Three years' practice.

Washington. Five years' practice.

West Virginia. No admission without examination provided for in this state.

Wisconsin. At least five years' practice within the eight years preceding the filing of the application.

Wyoming. No particular period of practice specified.

ADMISSION ON LAW SCHOOL DIPLOMA

In the case of states not here listed, it should be understood that the regulations make no provision for admission on diploma.

Alabama. University of Alabama.

Alaska. Certificate showing full course of study in any accredited law school, where course of study is not less than two years; such study to be pursued within the three years next preceding the filing of the application.

Arizona. University of Arizona.

Florida. Any law school chartered by the state, or any graduate of the law department of any chartered university in the state, may be admitted without examination.

Georgia. Graduates of Law Department of the State University, Law School of Mercer University or of the Atlanta Law School.

Louisiana. A diploma from the Law School of the Tulane University of Louisiana, Louisiana State University and Agricultural and Mechanical College, or Loyola University entitles the holder to admission without examination.

Mississippi. University of Mississippi.

Montana. Department of Law of the University of Montana at Missoula.

Nebraska. College of Law of the State University or the Creighton College of Law.

New York. Under the laws of New York, the Court of Appeals is empowered to dispense with the examination, where the applicant is a graduate of any law school, duly registered by the regents of the University of the State of New York, which requires a three-year course for graduation.

Porto Rico. Graduates of law school of University of Porto Rico or of any accredited university or law school of the United States where a preparatory course is required.

South Carolina. Law Department of the University of South Carolina.

South Dakota. Graduates of the College of Law of the State University, having been admitted to the degree of Bachelor of Laws.

Texas. Graduates of the law schools of the University of Texas, University of Virginia, Washington and Lee University, Harvard University, Yale University, Columbia University, University of Chicago, University of Michigan, George Washington University, University of California, University of Pennsylvania, Georgetown University of Washington, D. C., and holders of Rhodes scholarships from any of the states of the United States, the Law Colleges of Oxford University, England (that is to say, any one attending those colleges in virtue of a Rhodes scholarship, who was at the time of his attendance and graduation a resident of any of the states of the United States), who shall, within two years from the date of their graduation, apply for license, are licensed without legal examination.

Utah. Law school of the University of Utah.

Washington. Persons holding a diploma of graduation from the law school of the

University of Washington, or a diploma from an approved law school within the state of equal standing with the University of Washington, who shall have registered with the Board of Examiners at the time of commencement of study, and who shall have filed with the board a yearly certificate from the head of such school, showing the successful completion of the subjects for such past year, are approved without examination.

West Virginia. Law school of the University of West Virginia.

Wisconsin. Law department of the State University.

CORRESPONDENCE SCHOOLS OF LAW

The regulations of most of the states and territories are silent upon the admission of candidates who have acquired their legal education through correspondence courses, but of late years there seems to be an increased tendency on the part of the Boards of Examiners or other committees to bar from examination or admission persons who have pursued their law studies in this manner.

Connecticut. Correspondence schools are not recognized in this state.

District of Columbia. A correspondence course is not accepted as any part of the required term of study.

Hawaii. No correspondence course, extension course, or other course or period of home study is accepted as the equivalent of the regular law study prescribed.

Illinois. Correspondence schools are not considered law schools in good standing, and credits for study pursued in such manner are not recognized.

Kansas. Same restrictions as those of Illinois.

Maryland. Study of law by correspondence not accepted.

Massachusetts. No particular credit is given for a degree or diploma from a correspondence school, but study under such a school will be accepted as study under proper direction.

Michigan. The State Board of Law Examiners does not recognize correspondence schools.

Minnesota. No credit is allowed by the board for correspondence school course, or in business or commercial colleges.

New Mexico. Graduates of correspondence schools are required to file with their petitions a certificate of the governing authority of the school, showing period of study, subjects studied, and grades attained therein.

North Dakota. The Supreme Court has decided that graduates of so-called "correspondence schools" are not within the mean-

ing of the statute, and hence are not entitled to admission.

Omo. Certificates from correspondence schools of law, or from lawyers without the state, certifying that applicant has studied under their supervision within Ohio, are not recognized.

Porto Rico. Correspondence school diplomas not recognized.

West Virginia. No credit is allowed for law study carried on by correspondence, or privately outside of a law school, or when merely supervised by a member of the bar while the student is engaged in outside occupations.

RACE OR SEX AS DISQUALIFICATION

As in the case of correspondence schools, most of the states are silent upon this subject, but the following may be noted as found in the express terms of the statutes or rules of a few jurisdictions:

Race or sex constitute no bar to admission in Colorado or New York.

Women may be admitted on the same terms and conditions as men in Georgia, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, New Jersey, New Mexico, Ohio, Oregon, South Dakota, Utah, Washington, West Virginia and Wisconsin.

Notes and Personals

The Yale University School of Law will inaugurate this summer a new development in legal education. It consists of a graduate summer course for teachers of law and for lawyers. In addition to the regular summer session for undergraduates in law, special advanced and research courses for graduates of law schools and for law teachers will for the first time be given. The University has approved plans for the continuation of the experiment for three years, in order that those who attend this year may obtain, after three summers' work, a doctorate in law. The continuation of the course thereafter will depend upon the results disclosed during the next few years.

The graduate summer work will be inaugurated by four courses, two in the first and two in the second half of the summer session. In the first summer the work will be conducted entirely by members of the regular teaching staff of Yale; in subsequent years distinguished scholars from other universities may also be engaged. The graduate courses to be given in 1924 will include Roman Law and Modern Developments, by Professor Lorenzen, a course to be continued in the summer session of 1925; Problems in the Conflict of Laws, by Professor W. W. Cook; Legal History, by Professor Woodbine, a course to be continued in the session of 1925; and Legal Analysis, by Professor Corbin.

The regular summer undergraduate courses are also open to the graduate students, so far as time permits. In 1924 these courses will include Criminal Law (Professor Cook), Property I (Professor Thurston and Professor Clark), Evidence (Professor Hinton, of the University of Chicago), Public Service Corporations (Professor Clark), Equity III (Professor Thurston), Suretyship (Professor

Corbin) and Trade Regulation (Professor Breckenridge, of the University of Iowa).

This will be the first time, it is believed, that a graduate course in law has been instituted as a regular part of a summer session. The idea was induced by the fact that the three months of the summer vacation could and should be used by the law teacher and by the lawyer for self-improvement in his profession, with resulting advantage to himself and to the public. Graduate conferences during the summer months, under the name of Institutes, have proved a popular innovation in education. The Institute of Politics at Williamstown and the Harris Foundation conferences for the Study of International Relations at Chicago are already well known. Now one of the law schools of the country proposes to widen its educational facilities for the benefit of those who can devote the summer months to law study. It is hoped that the experiment will make an appeal to teachers of law and to members of the bar.

Yale will observe the centennial of its law school this spring and at the same time start a movement for the development and expansion of that department of the university. The Yale Law School has at present 294 pupils, holding degrees from 95 other colleges and coming from 40 different states, making the attendance truly national in character. The early graduates of the school include William Strong, '32, and David Davis, '34, who became associate justices of the Supreme Court; Alphonso Taft, '38, United States Attorney General under Grant, and father of Chief Justice Taft; and Theodore Dwight, dean of the Columbia law school from 1864 to 1891.

Before the school was founded it had existed rather informally as the private school

conducted by Seth Staples, Yale 1797. In 1824 he had 14 law students. The attendance was small until about 1840 when it entered upon a career of strength. It was shattered by the Civil War, however, and was nearly abandoned. In 1865 the faculty consisted of merely the president and one law professor, and the assets were given as a small library of antiquated books, a dozen chairs, and a stove. By 1903, however, the attendance had reached 350.

At this time the admission requirements were changed so that only college, instead of high school graduates, were allowed to enter. The result was a drop in registration, but the school was put on a high level, which was strengthened when full time professors were appointed. Yale was among the first half-dozen law schools of the country to adopt the case system, which has come into vogue nearly everywhere.

In 1904 Hendrie Hall was built as its headquarters. This has been outgrown and new lecture rooms and a dormitory are greatly desired. The library of 70,000 volumes has swarmed over the space allotted for 25,000 volumes.



The trustees of Columbia University have appointed Huger W. Jervey to be dean of the faculty of law in succession to Harlan F. Stone, now Attorney General of the United States, whose resignation as dean was accepted. Dean Stone has been on leave of absence since October 1 last, since which time the administrative duties of the law school have devolved upon Professor Thomas I. Parkinson as acting dean.

Professor Jervey received his education first at the Charleston, S. O., High School, and later at Charleston College and at the University of the South, from which he was graduated with the degree of Bachelor of Arts in 1899. After a year of graduate study there, he received the degree of Master of Arts in 1900. For the next two years, he was student of Greek language, literature, and history under Professor Gildersleeve at Johns Hopkins University. He then returned to the University of the South, where for six years, until 1909, he was associate professor and professor of the Greek language and literature. In 1910 Professor Jervey entered the Columbia Law School, from which he was graduated with the degree of LL. B. three years later. For two years he was an editor of the Columbia Law Review. Since graduation from the law school he has practiced law in the city of New York, being a member of the firm of Satterlee, Canfield & Stone, and therefore a partner of his predecessor in the deanship, the newly appointed Attorney General of the United States.

As soon as possible after the outbreak of the Great War, Professor Jervey joined the Officers' Training Camp at Plattsburg. He

saw active service in France in 1917-1918 as major attached to the General Staff Corps of the American Expeditionary Forces. He was cited by the commander-in-chief for distinguished services. After the Armistice and until April, 1919, Professor Jervey served on the General Staff Corps of the United States Army in Washington, to take part in the demobilization of the army. He joined the teaching staff of Columbia University as professor of law on July 1, 1923.

"Professor Jervey's appointment has the unanimous approval of the Faculty of Law," said a statement issued by President Butler. "He is not only a sound and experienced lawyer, but an admirable administrator and a real scholar. He possesses the unusual, but almost indispensable, qualification for the highest measure of success in any intellectual undertaking, namely, a thorough knowledge of the ancient classics. We confidently believe that under Professor Jervey's leadership the Law School will enter upon a period of still greater usefulness and distinction."



The regular summer term of the Northwestern University Law School will begin on June 23d. In addition to the members of the faculty, the following instructors will conduct courses: Hon. Clarence Milton Botts, Justice of the Supreme Court of New Mexico, will give the course on Mortgages, Hon. Lawrence De Graff, Justice of the Supreme Court of Iowa, will give the course on Real Property, Hon. Homer Bliss Dibell, Justice of the Supreme Court of Minnesota, will give the course on Wills, Hon. Henry Davis Ross, Justice of the Supreme Court of Arizona, will lecture on Criminal Law; and Professor Abner Leon Green, of the University of Texas Law School, will conduct the course on Torts.



Mr. Francis Bowes Sayre, Assistant Professor in the Harvard Law School, who is at present in Siam, acting as Foreign Advisor to the King of Siam, has recently been made a full professor. He will probably return to Cambridge in the fall.

Mr. James A. McLaughlin, of Chicago, who was graduated from the University of Michigan in 1912 and received a law degree at Harvard four years later, has been added to the staff of the Harvard Law School. He is now practicing law in Chicago.

Professor Nathan Isaacs, who this year has been acting as lecturer of Business Law at Harvard, has been promoted to a professorship in the Harvard School of Business Administration.



At least two and probably three additional professors will be added to the faculty of the University of Michigan Law School next year. The names of the new members

of the faculty have not yet been announced.

Professor Edson R. Sunderland will be absent on leave during the first semester, studying procedure in the British courts. He expects to make a first-hand examination of records, with the hope of arriving at a more definite and reliable judgment of the actual functioning of practice in the British courts than has thus far been obtainable.

Professor Horace L. Wilgus will also be absent on leave for the entire year and probably will spend at least a portion of the time in Europe, studying the corporation systems of France and other European countries. He will include in his investigation an examination of the treatment in some of the European countries of corporations foreign to such countries.

Even with these absences, the adding of members to the faculty will enable the law school to develop the curriculum, particularly with reference to advanced work in Comparative Law and Public Law.

The Lawyers' Club buildings given to the Law School by an alumnus of the school of national reputation at the bar, will be ready for occupancy next fall. In this first group of buildings there will be the Lawyers' Club proper, containing several bedrooms for graduate members of the Lawyers' Club, a private dining room and reading room for the faculty and visiting members, a beautiful dining hall to accommodate three hundred and upwards, and a residence hall for law students to accommodate about one hundred and eighty persons. These buildings are in the beautiful late Gothic style of architecture, designed by York and Sawyer of New York City. They are literally as good as buildings can be built, sanitary, conveniently equipped, and of very great charm. The underlying purpose of the donor is to promote legal education in its undergraduate form and to encourage research. For this latter purpose he has provided a fund for research purposes, most of which at first will doubtless be expended in increasing the faculty and enabling those specially qualified for research work to have somewhat more leisure for that purpose than it has been possible to give them before. It is the belief of all of the faculty that the presence of graduate members who may come to the Lawyers' Club to avail themselves of the large law library, where they may work away from the interruptions of their offices, will be of great value in increasing the esprit de corps in the student body by bringing them in contact with lawyers and judges of ability and standing.



The summer session of the University of Southern California School of Law, will open on June 23. The session will be divided, as usual, into two terms of six weeks each, and

courses will be completed in each of those terms.

It is expected that several new courses of interest will be offered this summer. Among these will be Medical Jurisprudence, Automobile Law, and Mechanic's Lien Law. No subjects which are required for a law degree are given in the summer session, but from ten to twelve units of work in elective courses may be completed.

Announcement is made of the addition of Professor W. Turney Fox to the faculty, upon a full time professorship. Professor Fox began his work on March 24, with the beginning of the spring quarter.



The summer quarter of the University of Chicago Law School opens June 16 and closes August 29, the first term ending July 23. The courses to be given are as follows:

First term: Remedies, Personal Property, Constitutional Law I, Future Interests.

Second term: Agency, Suretyship, Rights in Land.

Both terms: Damages, Administrative Law, and Private Corporations.

Members of the regular faculty who will give instruction will be assisted by Professor Percy Bordwell, of the University of Iowa College of Law; Professors James L. Parks and Kenneth C. Sears, of the University of Missouri Law School; and Professor Oliver S. Rundell, of the University of Wisconsin Law School.



The Stanford University Law School will offer the following program during the summer quarter:

First Year Courses.—Contracts A, four units, eight recitations weekly (first term); Contracts B, four units, eight recitations weekly (second term)—Professor Person, University of Missouri.

Personal Property, four units, four recitations weekly (both terms) Dean Fraser, University of Minnesota.

Second and Third Year Courses.—Title to Land, five units, five recitations weekly (both terms), Dean Fraser, University of Minnesota.

Persons and Domestic Relations, four units, eight recitations weekly (first term), Professor Vernier, Stanford University.

Mining Law, four units, eight recitations weekly (first term), Professor Bingham, Stanford University.

Bankruptcy, four units, eight recitations weekly (first term), Professor Osborne, Stanford University.

Admiralty, four units; eight recitations weekly (second term), Professor Dickinson, University of Michigan.

Partnership, four units, eight recitations weekly (second term), Professor Perkins, University of Iowa.

Mortgages, four units, eight recitations

weekly (second term), Professor Osborne, Stanford University

The first term will open Tuesday, June 24, and will close Saturday, July 28. The second term will open Monday, July 28, and will close Saturday, August 30.

Professor A. M. Cathcart will teach at the summer session of the University of California.

Professor C. B. Whittier, who has been spending his sabbatical year abroad with Mrs. Whittier, will return during the summer and take up his work at the opening of the fall quarter.



Prof. Bryant Smith, of the Law Department of the University of Colorado, is on leave of absence for the spring quarter for the purpose of rest and recreation. His subjects, Bills and Notes and Damages, are being given by Mr. Rudolph Johnson, former member of the State Tax Commission, and at present member of the state Legislature.

On Wednesday evening, May 7, a banquet was given in honor of John D. Fleming, who has served as Dean for twenty-one years. Many alumni and former students of the law school were present to express appreciation of the splendid service rendered by the Dean.

The law school has already issued its bulletin for the summer quarter. Owing to the fact that students come to the summer school from such a variety of schools, it has been necessary to provide a greater number of courses for the summer quarter than for the quarters of the regular school year. From the regular faculty Professors Fleming, Folsom, Arthur, and Long will be on duty, and in addition Prof. Potts, from the University of Texas.

The University has provided a special schedule of trips for those who love fishing, camping, climbing, and the thrill of riding on glaciers.



The summer session of the George Washington University Law School begins June 16th, and will consist of two six-week sessions, the first ending July 26th. The second session begins July 31st and ends September 10th. Five first year subjects are offered and ten second and third year subjects. The summer faculty consists of Professors Earl C. Arnold, C. M. Updegraff, Whitley P. McCoy, A. E. Evans, and C. S. Collier, and also Professor H. G. Spaulding, who is now taking the course for the degree of S. J. D. at Harvard, and who expects to return to our faculty the beginning of the second six-week period. Courses will also be given in the summer session by Mr. Joseph A. Jordan and Mr. T. C. Lavery. Dean Van Vleck will give the subject of Torts at the summer session of the University of Michigan Law School.

Hon. Harrington Putnam, formerly Justice of the Appellate Division of the New York Supreme Court, and nonresident Lecturer of the College of Law of Cornell University, delivered a series of six lectures at the College, during the week of April 28-May 3, on Admiralty and Maritime Law.

The annual address on the Frank Irvine Lectureship Foundation, established by the Conkling Chapter of Phi Delta Phi Legal Fraternity, was delivered by Hon. Irving Lehman, Judge of the New York Court of Appeals, on May 6. The subject of the lecture was the Influence of the Universities on Judicial Decision.

The trustees of the University, at the April meeting, appointed Horace Eugene Whiteside Assistant Professor of Law. Mr. Whiteside has been Secretary of the College and Lecturer in Law for the past two years. This appointment increases to seven the number of men of professional rank in the Law Faculty.

At the same meeting the Board of Trustees granted a sabbatic leave of absence to Professor O. L. McCaskill for the second term, 1924-25. In view of this action Professor McCaskill's courses in Practice and Practice Court will be combined next year in the first term as a five-hour course. His course on Actions will be given by Assistant Professor Whiteside in the first term.

A new course on Jurisprudence has been added to the curriculum, and will be given by Professor R. S. Stevens.

Dean George F. Bogert, who has been on sabbatic leave of absence during the current year, and who has spent the year in practice with the firm of Whitman, Ottinger & Ransom, 120 Broadway, New York City, will return to the college in September.

The Annual Banquet of the Editorial Board of the Cornell Law Quarterly was held at the Ithaca Hotel on the evening of April 26. The banquet was attended by the Board of Editors, the members of the Faculty, and several distinguished guests, including Senator George A. Blauvelt, New York City; Dean James Parker Hall, of the University of Chicago Law School; Hon. Frank Irvine, Ithaca; Hon. Harrington Putnam, New York City; Col. Henry W. Sackett, New York City; George J. Tansey, St. Louis, Mo.; Mynderse Van Cleef, Ithaca; J. Du Pratt White, New York City. Franklin S. Wood, the new editor in chief, was toastmaster, and the speakers were Allan H. Treman, retiring editor in chief, Dean Burdick, Col. Sackett, and Judge Putnam.



Georgetown Law School has been classified as a "Class B" law school on the American Bar Association's list, and next year, beginning September, 1925, it will be classified as a "Class A" law school. The Law School now requires one year of college work for

admission, and beginning September, 1925, two years of college work will be required for admission. The school offers two parallel courses in law—one a morning course from 9 a. m. to 12 noon, extending through three academic years; and the other a late afternoon course, from 5:10 to 7 o'clock p. m., extending through four academic years. The Law School has a library of approximately 11,000 books. In addition to the judges and practicing attorneys on the Law Faculty, there are six full time professors of law. Professor De Sloovere received his A. B., LL. B., and S. J. D. from Harvard University. Professor Tooke was a graduate student in History and Politics of Cornell, 1893-1894, was a Fellow in Administrative Law at Columbia, 1894-1895, Head of Department of Public Law and Administration and Professor of Law, University of Illinois, 1895-1902, and Doctor of Civil Law, Syracuse University, 1922. Professor Charles Albert Kelgwin, M. A., LL. B., is the author of Kelgwin's Precedents of Pleading, Kelgwin's Cases on Torts, and has recently brought out a third book, Kelgwin on Equity Pleading. He was formerly Special Assistant to the Attorney General, and former Assistant United States Attorney for the District of Columbia. William Jennings Price received his A. B. cum laude, Centre College, 1892, M. A. and LL. B. 1895, Centre College, LL. D., Centre College of Central University, Kentucky, 1917, Doctor of Laws and Political Sciences, National Institute of Panama, 1919, Professor of Law, Centre College of Central University of Kentucky, 1905 to 1912, Envoy Extraordinary and Minister Plenipotentiary of the United States to Panama 1913-1921. Professor Robert A. Maurer received his B. A. at the University of Wisconsin and his Master of Laws degree from Georgetown University Law School. He was, for several years, Principal of Central High School, of Washington. Professor Hugh J. Fegan received the degrees of Master of Arts, Bachelor of Laws, and Doctor of Philosophy from Georgetown University. He was Assistant Solicitor of the Department of Agriculture for four years and held a commission in the Judge Advocate General's office during the World War. He was also a Special Attorney in the Treasury Department, Income Tax Bureau, where he made a special study of the taxation of insurance companies. Mr. Fegan is Assistant Dean of the Law School.



Mr. John Edmond Hewitt has recently joined the faculty of New York University Law School. Mr. Hewitt graduated from the College of the City of New York in 1906 and from New York University Law School in 1911. Since his admission to the bar he has been engaged in the general practice of the law at 149 Broadway, New York. For three years he was law secretary to the late Jus-

tice Eugene A. Philbin, both at Trial Term and in the Appellate Division of the New York Supreme Court.



There will be no change in the faculty of the School of Law of the University of Montana for the coming year. Mr. Robert Elden Mathews is leaving to become Professor of Law at Ohio State University. His successor has not yet been chosen. The dedication of the new Law School building will take place on May 10th. The building will furnish very well equipped and modern quarters for the School of Law, and is sufficiently large to take care of the enrollment for many years to come. The library contains stacks for 50,000 volumes, with offices for the professors among the stacks. The building also contains a well-equipped courtroom and three classrooms.



The Y. M. C. A. Law School, Washington, D. C., announces that Thomas J. Frailey, A. B., A. M., LL. B., and Wm. W. Ross, LL. B., have been added to the faculty for the ensuing school year. Summer courses will be held in the Law School for all classes, in which work of the school year will be supplemented and additional credit earned towards the degree of LL. B.

On May 3 the annual banquet of the Law School was held, at which about one hundred guests were present. Hon. T. Webber Wilson, Congressman from Mississippi, was the speaker of the evening, and Mr. Charles V. Imlay, Dean, toastmaster.

The School has appointed Mr. Charles E. Wainwright, member of the bar of the District of Columbia, as permanent secretary, who will meet prospective students throughout the summer months, explain the advantages of the Law School, and arrange courses to be pursued, matriculation, etc.



The Law School of the University of Richmond, Richmond, Va., will offer for the first time this summer a course of twelve weeks, consisting of two terms. For the past two semesters a course of six weeks has been given in the summer school. The summer course includes only the subjects which are covered in the regular course. Applications for admission to the summer school received to date indicate that the enrollment will exceed the attendance of any previous summer session.



The year now closing has been the best year in the history of the School of Law of the University of Arizona. There has been a good increase in our law student body, and the outlook for the coming year is very encouraging.

The total registration in technical law courses for the present year is 104, of which number 19 are students from other departments of the University taking one or more courses of law as a part of their general cultural education. A class of 21 will graduate at the coming commencement.

So far as can be foreseen there will be no changes in the Law Faculty for the coming year. Whether there will be courses of law offered in the summer session of the University is not yet decided, the final decision depending upon the demand that may manifest itself for such work.

The cause of legal education was given a decided impetus at the last Annual Meeting of the Arizona State Bar Association, and a special committee of the Association is now at work on prospective bills to be submitted to the next Legislature looking to the establishment of higher educational requirements from those seeking admission to the bar of the state. The enactment of these proposed laws will enable the University to adopt in the near future as a requirement for admission to its School of Law two years of pre-legal education in addition to a high school education.

The completion of the new University Library building now under way will make available for the use of the School of Law within the next year the former Library Building and thus provide amply for the growing needs of the school.



The twenty-fifth annual commencement of the Benton College of Law was held on June 5th. The classes consist of fourteen collegiate, twenty undergraduate, and fifteen postgraduate students.

The twenty-eighth session of the college will close on May 24th, and the summer session will open on June 2d. The twenty-ninth session opens September 15th.

The school has established during the present year a research room as a further aid to the students for the preparation of class recitations and collateral reading.



The Law Club, a student organization at the University of Illinois, has recently instituted an enterprise to raise a fund to be used in meeting the expenses of painting a portrait of Judge O. A. Harker. This act of the Law Club represents an endeavor to give expression to the esteem and affection which the judge's friends, students and former students, have for him. It comes as a befitting recognition of the many services and kindly offices he has so well performed.

Judge Harker became a lecturer in the College of Law of the University of Illinois in 1897 and has ever since served the University in one capacity or another. The portrait will be life-size. Work on it is well

under way. It will probably be finished before the close of the present school year.

Mr. Elliott Cheatham, of Atlanta, Georgia, has been appointed professor of law. His services will begin next September. He comes as an addition to the staff. Professor Cheatham graduated from the University of Georgia in 1907, Phi Beta Kappa, and from the Harvard Law School in 1911 with honors. For two years he was on the Harvard Law Review staff. Since finishing his law school work he has devoted his time principally to the practice. He has been counsel in proceedings of national importance. Recently he appeared before the Federal Trade Commission, representing the Southern manufacturers in an effort to end the price system in the steel industry known as "Pittsburgh plus." For a time he was Assistant United States Attorney in Atlanta. He taught law part time for a year in the Atlanta Law School, and for the last three years has taught Common-Law Pleading and Code Pleading in Emory University School of Law. At present he is a member of the firm of Weltner, Cheatham & Sims of Atlanta.



The enrollment in the National University Law School during the last year was larger than that of the previous year. This is true of the entering class as well as of the other two.

There have been added to the faculty, which now numbers 43, Mr. Associate Justice Jennings Bailey, of the District of Columbia Supreme Court, Maj. Peyton Gordon, United States District Attorney, Hon. Henry R. Rathbone, Congressman at Large from Illinois, who is lecturing on trial tactics and practice.

A course on Medical Jurisprudence has been put in the school, under the charge of Dr. Percy Hickling, the alienist for the District of Columbia. There have also been added courses on Income Tax Law, Federal Trade Commission Jurisdiction and Practice, Government Contracts, Jurisdiction and Practice of Court of Claims, and several other special courses which are of particular interest to students living in Washington.

The course on Land and Mining Law has for many years been very popular, and the University has been adding each year, where practicable, some additional courses dealing with the growing activities of the federal government and its own special legal developments.

While the school continues to admit mature students who are otherwise qualified to study law, without the requirement that they have attended college for any period of time, the courses leading to the degree of J. D. are open only to students who have had four years of college work and a degree of A. B. or B. S. from some standard college. While the length of the course is the same as that

for the bachelor's degree, much additional work is required, as well as certain additional subjects, as, for instance, Roman and Civil Law, library research work, and the submission and defense of a thesis. A minimum scholarship of 85 is required for this degree.

The postgraduate degree of Doctor of Civil Law is also restricted to men who have had four years of college work prior to their entrance to the Law School.



The attendance in Washington University School of Law this year is 203—a slight falling off from the previous year on account of the entrance requirement having been raised from one year to two years of pre-legal college work.

Professor Charles E. Cullen was added to the legal faculty last fall, and was assigned the subjects of Evidence, Agency, Bailments and Carriers, and Domestic Relations.

The summer school in the School of Law will begin June 16th, with the following courses: Contracts I, Torts, Introduction to Law, Property I, Property II, Evidence, Bills and Notes, Property III, and Constitutional Law.

It is expected that there will be an additional member of the faculty the coming year.



The Vanderbilt Law School will conduct its fourth annual summer session in law, beginning June 23d and continuing ten weeks. The courses given will include Contracts and Torts for students beginning the study of law, and the following for students who have had some law work: Agency, Evidence, Partnership, Bills and Notes, Conflict of Laws, Insurance, Damages, Private Corporations, and Public Service Companies. The faculty will consist of Professor John Bell Keeble, Dean; Professor Charles J. Turck, Secretary; and Professor Holden Bovee Schermerhorn—all of the Vanderbilt Law School Faculty, together with Professor R. A. Rasco, of the University of Florida Law School, and Professor R. J. Hellman, of the University of Notre Dame Law School.

Professor Charles J. Turck has resigned his position as secretary of the law school and professor of law, effective September 1st, when he will become the Dean of the University of Kentucky Law School, at Lexington, Kentucky.



The summer session of the University of Wisconsin Law School will begin on June 23, 1924, and close August 29, 1924. The following courses will be offered: Contracts, Real Property, Corporations; Constitutional Law, Equity I, Persons, Public Service Companies, Sales, Servitudes, Trusts. In addition to Professors Brown, Page, Richards, Rundell, and Wickham, of the regular fac-

ulty, courses will be offered by Professor H. C. Horack, of the University of Iowa, and Professor M. T. Van Hecke, of the University of Kansas.

Professor E. A. Gilmore, of the University of Wisconsin Law School, now Vice Governor of the Philippine Islands, who is absent on leave, was recently in the United States in connection with the duties of his office.

Professor Howard L. Smith, of the University of Wisconsin Law School, is absent on leave during the second semester because of illness.



There have been a number of changes recently in the faculty of New Jersey Law School, Newark, N. J. Judge William N. Runyon, of the United States District Court of the District of New Jersey, joined the faculty at mid-year and is giving the courses in Sales and Domestic Relations. Judge Runyon expects to take a full schedule next year, adding two more subjects. Mr. Allison Reppy, now of the University of Oklahoma Law School, will join the faculty next September. He will give courses in Pleading and Practice, Trusts, and Wills.

The summer session for the coming summer will be in charge of Professors G. S. Harris and Allison Reppy.

Judge E. C. Caffrey, of the Court of Common Pleas and Professor of the Law of Evidence, has nearly completed a new casebook on Evidence, which will be published by the New Jersey Law School Press in time for use during the school year 1924-25. Prof. G. S. Harris will publish during the summer a casebook on Statutory Construction, which will be used by the senior class next year.

A new classroom for the incoming freshman class of 1924 is nearing completion. This room will accommodate three hundred.

The morning class, instituted last September, will be continued next year, and embrace both the junior and freshman year.



During the year large additions have been made to the library of the College of Law of the University of Iowa. These additions include all of the principal South African and Australian Reports, the Scotch Reports, and the completion of odd sets missing from the Irish and Canadian Reports, and bring the total number of volumes in the library to upwards of thirty-five thousand volumes. To accommodate these additions to the library it has been necessary to construct a second deck over the first tier of stacks in the library, thus increasing the stack capacity to approximately fifty thousand volumes and giving expansion space for several years to come.

The summer session plans for 1924 continue the experiment of last summer in offering several courses of peculiar interest to ad-

vanced law students and younger members of the bar. These are given in several instances by practicing lawyers, who have specialized in the particular lines which they teach, and include courses in the Examination of Abstracts of Title, Income and Inheritance Taxation, Organization and Management of Corporations, and Drafting of Legal Instruments. Substantive courses are given by Professors Horack, McGovney, and Cook, of the resident faculty.

Other features of the summer session will be a series of lectures, continuing through five weeks, given by some of the most distinguished members of the Iowa bar, on Problems of Iowa Law and Practice. Included in this series of lectures and addresses will be a conference conducted by the Attorney General for the special benefit of county attorneys and a conference on Iowa Public Utility Law similar to the conference held on that subject last year. The results from last year's summer session seemed to fully justify the continuance of the experiment and starting along the lines under which it was undertaken.



The summer session of the Law School of the University of Kansas will be ten weeks in length, beginning on June 11th. Professor William L. Burdick, of the law faculty, will give courses in Mortgages and Real Property I. Professor Frank Strong will give Municipal Corporations and Bankruptcy. Each of these men will teach five weeks only. Professor R. H. Wettach, of the University of North Carolina Law School, will teach for the entire ten weeks, and will give courses in Criminal Law and Conflict of Laws. During the last five weeks Professor Wesley A. Sturges, from the University of Minnesota Law School, will give courses on Equity III and Quasi Contracts. Professor W. C. Dalsell, of the Tulane University Law School, will give courses in Personal Property and Insurance.



Mr. F. D. G. Ribble has been made Associate Professor of Law of the University of Virginia and provision has been made for a new professor on the law faculty.



The three-year law course at Stetson University has proved a success. The attendance this year has been 85. Dean G. Prentice Carson has unified and supervised the work with great strictness and fine results. The senior class graduating this year numbered nineteen.



The following new members of the faculty of the St. Paul College of Law, St. Paul, Minn., are announced for the coming year: Mr. McNeill V. Seymour, who will teach Dam-

ages and Suretyship; and Mr. G. A. Youngquist, who will teach Criminal Procedure.



The registration in the freshman class at St. Ignatius College this year was double that of the previous year. In consequence of the large number of applications, it has been deemed advisable to meet the situation by the addition of a new class. Some change will be made in the subjects to be taught. Four new teachers will probably be added to the faculty. One of them is Mr. Harold Caulfield, who will teach Bills and Notes. The names of the other three teachers have not been announced as yet.



Washington College of Law, Washington, D. C., closes one of its most successful years with the coming commencement on June 4, when fifty-four men and women will receive their degrees.

During the year the College has had the services of several special lecturers. Mr. William S. Gilchrist, who has been Assistant United States Attorney for many years, is lecturing on Criminal Procedure. Mr. Moncure Burke, Clerk of the Court of Appeals of the District of Columbia, is giving a course in Appellate Practice. Mr. William Collins, of the District of Columbia Bar, is lecturing to the senior class on Extraordinary Legal Remedies. Both Appellate Practice and Extraordinary Legal Remedies are new courses this year.

The summer session of the Washington College of Law begins on June 16 and ends July 25, 1924. The following subjects will be given: Personal Property, Prof. George F. Wells; Criminal Law, Prof. William S. Gilchrist; Testamentary Law and Probate Practice, Prof. William Clark Taylor; Evidence, Prof. Edwin A. Mooers; Partnership, Prof. George F. Wells; Cases on Evidence, Prof. Stanley D. Willis. Enrollments are now being made and a successful session is anticipated.



The Law School of the University of Utah is making preparations to join the Association of American Law Schools. It will spend about \$7,000 this spring for new books, which will give it a very good working library.

The faculty will undoubtedly remain the same for the ensuing year but the following year it is hoped that two additional full time men can be procured, which will then make three full time men, including the Dean, who will do the greater part of the teaching in the Law School.



The College of Law at the University of Notre Dame will offer courses in Wills, Damages, and Constitutional Law at the summer school, which opens on June 25 and closes on August 6.

Mr. Hadley, of the Wyoming Law School, and Mr. Wooten, of Seattle, Wash., will join the law faculty next September.

A new law bulletin has been issued and will soon be ready for distribution.



The summer school of the University of Richmond School of Law will offer for the first time a course of twelve weeks, consisting of two terms. For the past two summers a course of six weeks has been given by the school. The applications for admission indicate that the enrollment this summer will exceed the attendance of any previous summer session. It is expected that next year there will be two or more additions to the law faculty.



The School of Law of Fordham University announces that, beginning with next September, the school will require as a condition of admission as a candidate for a degree one year of college work or its equivalent, and in September, 1926, two years. Mr. Edward J. O'Mara, a graduate of the school, has been appointed lecturer, and Mr. Joseph Lorenz, who has been a lecturer for several years, has been appointed Associate Professor.



Mr. Philip Mechem, Assistant Professor of Law, University of Idaho, has been given a leave of absence for the year 1924-1925. He will teach part time at the Law School of the University of Chicago, and at the same time devote himself to certain special courses of study in that Law School.



The Law School at the University of Wyoming is losing the services of Mr. Edwin W. Hadley, who has resigned his position there to accept a position upon the staff of the Law School of Notre Dame University. A successor to fill the vacancy caused by Mr. Hadley's resignation has not yet been chosen. Otherwise the faculty of the law school will remain the same for the academic year 1924-25.

Plans for the installation of additional equipment in the Law School quarters are under way. Plans call for the installation of courtroom equipment, conforming in all respects to regular courtrooms. The library reading room will be made more comfortable for study by the installation of additional equipment. As no work is offered by the Law School during the summer months, rearrangements will be effected at this time. It is hoped that this work will be completed by the beginning of the fall quarter, 1924.



The trustees of the University of Louisville have voted to raise the entrance require-

ments of the law school next year to two years of college work. It is hoped that one full time man will be added to the faculty.



The summer preparatory course of the Portia Law School, Boston, Mass., opened May 28 under the direction of Percy F. Williams, LL. B. This is an intensive course for undergraduate students who have any deficiencies to make up in their general education. The course this year will comprise the subjects of American History, Civics, English Composition, and Economics.

Dean Arthur W. MacLean returned to his office on May 8 after a six months' absence, due to an operation and serious illness, from which he has fully recovered and expects to resume his teaching next fall in the subjects of Contracts, Real Property, and Constitutional Law. During his absence, his duties were capably fulfilled by Mrs. MacLean, who served as Acting Dean, in addition to her work as a member of the faculty.

The graduation exercises this year will be held in Ford Hall, Ashburton Place, Boston, on Wednesday evening, June 6. Dr. William E. Huntington, President Emeritus of Boston University, will deliver the address. United States Attorney Robert O. Harris, President of the Board of Trustees, will preside. Sixty-two young women will receive their degrees on that date, or exactly double the number granted last year.

During the summer, all the halls and offices of the school will be redecorated. A reception and reading room will be fitted up on the street floor, and all the classrooms, offices, reception room, and library will be fitted with new draperies, which will add much to the attractive appearance of the entire building. The School Library has been enriched by an additional set of Corpus Juris-Cyc. and the American Law Reports, Annotated, and by the purchase of the Northeastern Reporter system, complete to date.

Beginning next fall, with the opening of its seventeenth year, the school year will be increased in the evening division from thirty-one to thirty-four weeks. Owing especially to the rapid growth in size of the classes, it is expected that this change will aid very greatly in enabling the school to maintain its endeavor to furnish thoroughness of instruction. The evening division will open on September 22, and the day division on September 29, both courses occupying four years.

The summer courses in law opened on May 19, and will continue intensively until June 26. Two senior subjects only are offered: Domestic Relations, by Professor Frederick O. Downes; and Municipal Corporations, by Professor A. Chesley York, Assistant Attorney General of Massachusetts. These summer courses are intended

primarily for students who have completed three years of law study, in order to enable them to receive credit for two of their senior courses prior to the beginning of their fourth year, and thus make it possible for them to have more time in their final year for preparation for the state bar examinations.



The John Marshall School of Law, Cleveland, has been chartered by the state of Ohio to grant appropriate degrees, after eight years of phenomenal success in the field of legal education. This school now offers a four-year course leading to the LL. B. degree, with opportunity for morning, afternoon, and evening study. The postgraduate course, leading to the LL. M. degree, is making a strong appeal to the younger members of the profession. The school enrolls in excess of 400 students.

D. R. Hertz, graduate of the Harvard Law School, and E. F. Tracy, graduate of the Yale Law School, have joined the faculty of the John Marshall School of Law, Cleveland. Both men are in the active practice of their profession and add strength to the faculty.

Summer school courses are offered by the John Marshall School of Law, Cleveland, on the application of fifteen or more students. Summer school work has become a regular feature of the school.



In spite of the fact that all applicants for admission to the School of Law, University of South Carolina, as candidates for degrees, were required, at the beginning of the present session, to show completion of at least one full year of college work, the total registration in the Law School has exceeded all previous records, and one hundred and fifty-four students have been admitted. So far as is now known, there will be no change in the faculty for the coming year, and the same five professors will continue to conduct the work of the school.



The Dickinson School of Law, Carlisle, Pa., states that Mr. Ellahue A. Harper has succeeded Mr. James B. Gibson as professor of the subjects of Corporations and Evidence. Mr. Robert L. Myers, Jr., succeeds Mr. John E. Myers as professor of Practice. Professor Harper came from the Law School of the Ohio Northern University, and Professor Myers is a recent graduate of the Dickinson School of Law, and is a practicing attorney.



At the last meeting of the Association of American Law Schools, held December, 1923, in Chicago, the Mercer University Law School was admitted to membership.

There will be no change in the faculty of the Mercer University Law School for the next year. Wm. H. Fish, Dean, John H. Moore, J. D., University of Chicago Law School, and Rufus C. Harris, LL. B. and J. D., Yale University Law School, will continue to serve as full time professors of law in the law school. Messrs. Park, Strozler, Jones, Smith, and Talley, who at present constitute the part time membership of the faculty, will again give the courses which they gave this year.

At present the Mercer University Law School requires one year of college work, in addition to having a high school diploma, as a condition precedent to admission. As previously announced, beginning 1925, two years of college academic work will be required for admission.

During the present scholastic year the library has added to its shelves more than a thousand volumes of new books, making a total now in the library of approximately seven thousand volumes.

The courses offered in the Mercer University Summer School for the present summer will be Introductory Law, Legal Technique and Legal Method, Bailments and Carriers, International Law, Administrative Law, and Equity III.

The prospects for the new Mercer University Law School building have matured to the point that it is expected that the building will be erected in the very near future. The place for the building has already been designated.



The following changes in the faculty have been made for the current year in the Chattanooga College of Law. Judge Floyd E. Estill, of the Criminal Court of Hamilton County, Tennessee, has joined the faculty and will teach the subject of Conflict of Laws. Prof. R. F. McClure will teach the Law of Real Property, and Prof. T. T. Rankin has been assigned to the subject of Bailments and Carriers. There are no other faculty changes.

The College of Law closes its twenty-sixth anniversary, having been organized as the Law Department of the University of Chattanooga, Tenn., in 1898. Enrollments are coming in for the 1924-1925 term, and in all probability there will be a large increase in the number of students.



Beginning with the fall term, 1924, the entrance requirements for admission to the law school of the University of Georgia will be raised to one year of college work. An entrance requirement of two years of college work will be put into effect at the opening of the fall term of 1925. The following courses will be given during the summer:

Professor Upson will give a course on Mu-

municipal Corporations and the Law of Bailments, Professor McWhorter will give Criminal Law and Domestic Relations, Professor Cornett will conduct the courses on Contracts and Sales, and Judge Cobb is scheduled to give a course on the Constitution of the United States and on the Constitution of the State of Georgia. During the summer Dean Sylvanus Morris, of the Law School, will deliver two public lectures: The Study of the Law; the Application of Principles.



Dr. Charles J. Turck, Professor of Law at Vanderbilt University, has been elected Dean of the College of Law of the University of Kentucky. Since the death of Dean Lafferty, Judge Lyman Chalkley has been acting head of the Law Department of the University of Kentucky. Dr. Turck, who is a native of Louisiana, was graduated from Tulane University College of Law, and has been a member of the law faculty at Tulane and Vanderbilt.



Mr. C. W. Sears, instructor in Constitutional Law at the University of Omaha Law School, died recently, and his place will be taken by Amos Thomas, former instructor in this subject. The school has on the press another of its interesting bulletins of Nebraska Law, entitled "The Development of the Attractive Nuisance Doctrine." This will be distributed free of charge to Nebraska lawyers. The experiment was tried this year of having residents in the vicinity of the University act as jurors in moot court cases of the Law School. This has proved so satisfactory that the moot court work will be continued next year as a regular course.



The Providence Division of the Northeastern University Law School will have its first graduation this year for students who have completed the four-year course. At the present time eight members of the senior class are candidates for the LL. B. degree. Three out of four of the seniors who attempted the March bar examinations for the first time, were successful in passing. Out of a total of 31 men who took the March bar examinations, only 13 passed.



A six months summer school course will be given at the University of South Dakota School of Law this summer.



One of the most important events of the year at Suffolk Law School was the erection of a splendid four-story annex adjacent to its main building, affording additional seating capacity for sixteen hundred. Work on

the new structure began early in September, and the building was dedicated in March.

United States Senator David I. Walsh, who as governor of Massachusetts signed the charter authorizing the school to confer degrees, delivered the dedication oration.

The total enrollment of the school this year was 1,737 students.

The erection of the annex has made possible the enlargement of the school library and the setting aside of some of the smaller lecture halls for special work.

Suffolk Law School is also planning in September, 1924, to open its classes to day students, offering a four-year course paralleling its evening instruction.



The College of Law of the University of Cincinnati will begin its ninety-second year September 24, 1924.

Professor George L. Clark has been appointed a full time professor, and will teach Torts, Equity, Insurance, Partnership, and Municipal Corporations.

During the past year Mr. Milton Hurtig taught the subject of Suretyship, and will continue to do so the coming year.

The faculty will consist of four full time men and nine part time men.

It is expected that the law school will move into the new law building on the University campus by the fall of 1925.



The past year has been a very satisfactory one for the Northwestern College of Law, at Minneapolis, Minnesota, both in attendance and in the character of work done.

There have been two new members added to the faculty. Mr. Donald Wright has taken over the course of Bailments and Carriers to the satisfaction of every one concerned.

Mr. William A. Anderson has been appointed instructor in the new course of Suretyship, which formerly was combined with the course in Negotiable Instruments. He is also giving Conflict of Law.

Mr. Fred B. Wright, Sr., is teaching the new course in Municipal Corporations.

Mr. C. C. Wheaton, Asst. Dean, is giving the courses in Legal Bibliography and Brief Making, and he is also assisting Dean Young in Practice and Procedure. In the latter subject greater emphasis is being put upon the trying of cases than ever before, and with excellent results.

In Real Property considerable stress is being given to the drawing of all the various types of papers that are connected with the practice of real estate law.

During the month of February there was a splendid assembly held, at which Chief Justice Wilson, of the Supreme Court of Minnesota, gave an address on the five to four decisions of the Supreme Court in the

United States, which showed close study of these cases and was highly interesting and instructive.

Regulations have been adopted during the year assuring an even higher standard of work than has been required before.

For the coming year the old instructors will remain. The plan now is to give a special course in Minnesota Law.



The summer session of the Marquette University Law School will begin June 16 and close on July 26. Courses are offered in Equity II, Damages, and Municipal Corporations.



The Gonzaga University Law School, Spokane, Wash., has now been established twelve years, and has had an enviable record of having 98 per cent. of its graduates pass the bar examinations with honors. All students who qualify for a degree are required to have two years of college work in preparation for their legal studies. Following is a list of the members of the faculty and the subjects taught:

Edward J. Cannon, LL. D., Dean of the Law School.

Hon. Richard M. Webster, LL. D. (Judge of the Superior Court), Professor of Evidence, Moot Court.

James T. Burcham, LL. D. (former Professor at Stanford University), Professor of Equity and Private Corporations.

Hon. Henry W. Canfield, LL. B. (former Judge of Superior Court and Regent of Washington State College), Professor of Constitutional Law.

Edward M. Connelly, LL. B. (Assistant Prosecuting Attorney), Professor of Property.

Fred S. Duggan, LL. M., Professor of Contracts, Community Property, and Municipal Corporations.

Francis A. Garrecht, LL. D., Professor of Federal Procedure.

H. Sylvester Garvin, LL. B. (Assistant United States District Attorney), Conflict of Laws.

Francis J. McKevitt, LL. B., Statutory Construction, Carriers.

J. Emmett Royce, LL. B., Torts, Landlord and Tenant, Bankruptcy.

Associate Professors: Hon. Bruce Blake, LL. M., Judge of the Superior Court; Hon. William Humeke, LL. B., Judge of the Superior Court; Hon. Hugo E. Oswald, LL. M., Judge of the Superior Court.



The City College of Law and Finance, St. Louis, Mo., at a meeting held recently, voted unanimously to increase the time required to complete its professional law course from three to four full school years, and increased the time required for work in its prelegal or preparatory school another year,

The City College of Law and Finance has heretofore given a three-year course and has the largest postgraduate law class in the city of St. Louis, but it was the feeling of the faculty that, in accordance with the well-established custom of the other Missouri schools conducting four-year courses, in order to give the students more time on some of the important subjects and additional moot court work, four years should be the standard. At the present time all the resident colleges of Missouri now require four years of night school study for the degree of Bachelor of Laws (LL. B.).

The commencement exercises of the City College of Law and Finance will be held at Moolah Temple, on Lindell Boulevard on the evening of June 3d, at which time the college expects to graduate a large class, and invitations will be mailed to all the alumni, students and friends of the college.

A special summer school will be conducted in the academic department, as well as in the School of Law. The school will be conducted for those who wish to make up high school subjects, so as to enter law or accounting next September, and will also be conducted for those who wish to make up certain law subjects during the summer term. The college will be glad to mail any one interested full particulars upon request.

The largest attendance in the history of the college gathered at the American Annex Hotel to honor Dean Chas. B. Davis, dean of the Law School.

The after-dinner speeches at the Sixteenth annual banquet of the City College of Law and Finance, held on Lincoln's birthday at the American Annex Hotel, St. Louis, dwelt largely upon the opportunity offered the young man willing to attend night school, and addresses were made by three of St. Louis' political powers, Mayor Kiel, former City Counselor H. S. Caulfield, and Federal Judge Chas. B. Davis.

At the speakers' table were gathered many of the state's most distinguished citizens, among them being many of the judges of the St. Louis Circuit Court, Hon. Ben. Weidel, member of the Board of Education, Hon. Nat Goldstein, former Clerk of the Circuit Court, and Hon. John A. Talty, former candidate for mayor.

Judge Davis delivered a very able address on law enforcement and our present judicial system. Mayor Kiel spoke of the great good the college has done in the city of St. Louis, directing attention to the fact that a nephew of his was a graduate of this school. He told of his regular attendance at these annual banquets, stating that he believed he had never missed a banquet of the college since 1917.

An excellent musical program was rendered and the students' council is to be congratulated upon the wonderful success of this affair.

Carlisle B. Morrison, graduate and post-

graduate of the Law Department of the City College of Law and Finance, was nominated for the office of State's Attorney of Monroe county in the recent primary in Illinois. Morrison was admitted to the bar in Missouri in 1918, and later was admitted in Illinois. After practicing in St. Louis for a time, he removed to Waterloo, Illinois, where he is now practicing.



The Illinois Wesleyan University heretofore has required a four-year high school course as a prerequisite for admission. Beginning with the next year, there is added to this minimum requirement at least one year of college training. There are now 126 students in all. The course of study is three years. No noteworthy change in the curriculum or in the faculty is contemplated.



The John Randolph Neal College of Law, Knoxville, Tenn., opened its doors last fall and has had a very successful first year. Mr. W. A. Poore, a member of the law faculty, died recently, and the student body of the school are planning to hold a memorial service for him. Dr. Neal, Dean and founder of the school, is making the race for Governor of Tennessee.



The Tulsa Law School, at Tulsa, Okl., will open its second year next fall. An enrollment of some fifty or seventy-five students is expected. There are now thirteen members of the faculty. Classes are being conducted in the Board of Education building, owned by the City of Tulsa. This building is a three-story building and has a number of well-equipped classrooms. The use of this building was given to the school by the school board of the City of Tulsa. It will be used until permanent quarters are secured. Next year the Law School expects to organize a debating team, which will contest with other colleges.



The Law School of Tri-State College, Angola, Ind., had a prosperous year. The average attendance has been about twenty. The night classes have been discontinued, and all classes are held in the daytime. No change has been made in the faculty. The summer term will be maintained, beginning June 3d.



The Jefferson School of Law, Dallas, Tex., offers a summer school course, beginning the 15th of June and extending to September 1st. This course includes a thorough review of the entire curriculum. In addition to the regular subjects studied, the review includes Blackstone's Commentaries on the English Law and Kent's Commentaries on American

Law. Mr. George E. Hughes, a graduate of the Law School of George Washington University, and Sarah T. Hughes, also a graduate of that law school, have been added to the faculty this year.



The School of Law of the University of Buffalo will require, after September 1, 1925, that all candidates for admission shall have completed one year's work in the College of Arts and Sciences, and that after September 1, 1927, all such candidates shall have completed two years' work in the College of Arts and Sciences.



The Mayo College of Law has enjoyed a substantial increase in enrollment during the past year. A number of new students entered at the beginning of the second semester.

The summer term will begin June 16, and schedules of class sessions are arranged to accommodate new students who desire to enter at that time.

Beginning with July 1, 1924, a year of college work will be required for admission to either the day or evening division of the Law School.

There have been no changes in the faculty during the last year.



There will be only one change next fall in the faculty of the Northeastern University School of Law, at Boston, Mass. Mr. Jay E. Angevine will give up the course in Bankruptcy, and teach only the course in Wills. Mr. Murray Hall has been selected to fill the vacancy thus created. Mr. Hall took his A. B. and A. M. from Harvard in 1915, and received his LL. B. degree from Harvard in 1919. A complete revision of the Law School curriculum has been made, due to this reorganization of courses. Mr. Raymond T. Parke will teach Personal Property and Sales, instead of Bills and Notes, as formerly. Mr. Elias Field will give the course on Real Property and Its Transfer Inter Vivos.



The Summer School of the School of Law of the University of Texas will consist of two terms, inclusive dates being June 7-August 30. A course in Trade Regulations will be given by Professor M. S. Breckenridge, Professor of Law of the University of Iowa, and a course in Labor Law and one in Insurance by Professor J. E. Hallen of the University of Kansas. Members of the regular faculty who will give courses are Professor C. T. McCormick, Professor I. P. Hildebrand, Professor W. A. Rhea, and Professor Frank Bobbitt, who has been absent on leave attending the Yale Law School during the session 1923-24.

There will be several changes in the faculty of the Lamar School of Law for the coming year. The present Dean of the School, Hon. S. C. Williams, formerly Associate Judge of the Supreme Court of Tennessee, has resigned his position, the resignation to take effect in June. Dean Williams has been at the head of the school for the past five years. When he took hold of the helm in 1919 the school was at low ebb due to the effects of the war. Since that time great progress has been made under his deanship in every way. The faculty has been strengthened, courses have been more systematically planned and arranged, the standards of the school have been raised, the number of the students has increased two- or three-fold, and the personnel of the student body is at the present time better than it has ever been before in the history of the school.

The requirements for entrance are now two full years in college, in addition to a four-year high school course, and it is anticipated that living up to this requirement strictly will prevent the school from growing appreciably in numbers during the next year or so. When school opens in September, there will be at least four full-time men on the faculty, though the names of the new faculty members have not yet been announced. It is also expected that during the next year a considerably larger amount of money will be used in building up the library than has been available in any year heretofore.



The John Marshall Law School will celebrate this June the completion of its first twenty-five years of legal education. The attendance during the present year has been the largest in its history, numbering nearly three hundred students.

To meet the new rule of the Supreme Court that goes into effect on July 1, 1924, the School intends to add to its Pre-legal Course of high school education one year of instruction in work of a college grade.

During the year the School has lost by death one of the oldest members of the faculty, Honorable Edward Osgood Brown, formerly Justice of the Illinois Appellate Court. Thorley Von Holst, Ph. B., LL. B., has been added to the faculty.



The Hartford College of Law has decided to extend their course from three to four years. Mr. John J. Burke and Mr. Wm. J. Burke have resigned from the faculty and Mr. James J. O'Connor, who has been teaching the subjects of Torts and Bailments and Carriers this year, has been added to the faculty. The School will have a Board of Governors composed of either three or five of the most distinguished members of the Connecticut Bar. Announcement of the names of the Board cannot be given at this time. The graduating exercises of the School will be held the early part of June. Mr. Philip H. LaFleur, one of the original students in the Law School, stood third in rank out of the fourteen who passed the Connecticut Bar examinations last December. Seventy-five applicants took the examination.



The Y. M. C. A. Law School, Minneapolis, reports a very good showing of its graduates in the bar examination of last year. Four students took the examinations and received general averages of from 80 to 85. This record compares very favorably with that of other leading law schools.

Just Published

SECOND EDITION

Lorenzen's Cases on Conflict of Laws

(American Casebook Series)

By Ernest G. Lorenzen

Yale University Law School

The second edition includes a wider range of material than was possible within the narrow compass of the first edition. The subject of "Jurisdiction of Courts" is treated no longer in connection with "Foreign Judgments," but is given, with considerable amplification, an independent chapter. The chapter formerly entitled "Penal Laws" has been expanded to include fiscal matters. Special attention has been given to the Workmen's Compensation Acts. The chapters on "Marriage and Divorce" have been expanded, and sections have been added dealing with the personal rights and duties of husband and wife and parent and child. A general section, entitled "Persons in General," and intended to serve as an introduction to "Family Law," has been added.

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Saint Paul, Minn.

The American Law School Review

An Intercollegiate Law Journal
S. E. Turner, Editor

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Just Published in American Casebook Series

SECOND EDITION OF Cases on Corporations

By Harry S. Richards

Dean of the University of Wisconsin Law School

In this edition the order of treatment and analysis adopted in the first edition has, in the main, been followed. In some instances, changes in the order of the subject-matter as well as cases have been made. Since the first edition, there have been some notable decisions that modify formerly accepted doctrines in corporation law, particularly in the field of corporate reorganization and consolidation. The more important cases in this field are presented in this edition. In all fifty-eight new cases have been added. The notes in the second edition have been elaborated, and include a comprehensive list of references to articles and notes in legal periodicals that will, it is hoped, prove helpful in the discussion of the cases in the text. An appendix has been added, containing forms for the organization of corporations, and the articles and by-laws of some well-known corporations of international scope.

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No. 7

Some Phases of Legal Education

By Hon. HARLAN F. STONE

Attorney General of the United States

[An address delivered by Attorney General Stone at Yale University on the occasion of the celebration of the Centennial Anniversary of the Law School, June 18, 1924.]

THE Centennial Anniversary, which we are here assembled to celebrate, gives emphasis to the fact that it was in America that the English common law first became the subject of University study in a real sense, and it is here that that study has reached its highest development. No chapter in the history of education so stirs the imagination; no educational achievement seems more worthy of commendation or more pregnant with consequences to the future welfare of our Republic. To have made the common law the subject of University study in its highest and best sense, in a span of a little more than a generation, was an accomplishment; but to have given to it a novel and successful method of exposition of legal science, which has won the enthusiastic approval of the educational world at home and abroad, and to have assumed a position of leadership in our profession by virtue of their scholarship and their spirit of devotion to the highest interests of the profession, are high achievements, in which American

Schools of Law and American Universities may take a just pride.

It is a noteworthy fact that the beginnings of the teaching of the art of a profession have always originated in private initiative and enterprise. This was true of the exposition of principles of theology from both its Greek and mediæval sources. Hypocrates, in the oath which he administered to his disciples, enjoined them to teach the principles of the art of medicine. To this rule law has proved no exception. Both in England and America the first steps toward systematic training in the principles of common law were the private undertakings of lawyers especially skilled and especially interested in its exposition.

One has not far to seek for the explanation of the universality of this rule. The objective in the practice of a profession is always the ministration to the spiritual or physical needs of others. Its principles are, consequently, something more than mere intellectual abstractions. Nor is it ever completely subject to sci-

tific laws, for it has its origin in the application of a practical art, not distinguishable in its early history from a trade or business. Knowledge of the art is at first acquired and transmitted through apprenticeship; later, its accumulated learning is expounded by those of its devotees especially fitted for the task by knowledge of its principles and by skill in its exposition. Ultimately, when it rises to the full dignity of a learned profession, its learning must be subjected to analysis and to classification. Its principles must be stated and restated, and its underlying causes sought out and appraised by those processes of analysis and exposition which can be successfully carried on only in the University.

There is a theory of history that human progress, which is the real subject of history, moves in cycles, in which each cycle progresses from its beginnings, in the more primitive type of civilization, to its conclusion, in a more complex and higher type of social development, but that each successive cycle moves swiftly, and consequently in a shorter space of time, to its conclusion. However disputable this may be in the field of general history, the theory finds verification in the record of the development of legal science. From the primitive beginnings of Roman law, from its apprenticeship stage, to the time of its exposition as a learned art, in the mediæval Universities, spans nearly two thousand years, and it required some seven centuries more to develop, in the art of its exposition, a technique and resourcefulness comparable to that which to-day obtains in the teaching of the English common law in at least a half dozen American Universities. The corresponding transition in methods of study of the English common law may be traced from its beginnings, in the twelfth century, to the first serious attempt to carry on instruction in law in public institutions of learning in both England and in America, in the last of the eighteenth century, a period of some six hundred years.

The still later period, which may be referred to as that of "the intensive development" of the methods and processes of

the University study of the common law, corresponding to the period which reaches from the beginnings of the study of Roman law at Bologna to the intensive study and criticism of that system in France and Germany in the nineteenth century, has begun, and come to its present high estate, within the lifetime of many here present.

Until some fifty years or less ago, when there dawned what I like to think of as the golden age of legal education in America, its story was one of vague aspirations and crude beginnings.

To Ezra Stiles, president of Yale College, belongs the honor of first proposing the establishment of a professorship of law at an American seat of learning. In 1777, he drafted a plan for a University course of lectures in law and in medicine. His plan, so far as instruction in law was concerned, did not come to fruition until forty-seven years later, when Yale carried into practical operation a plan, not for the delivery of lectures on law in dilatante fashion, such as had characterized previous attempts, but for the establishment of a course of instruction intended to prepare prospective members of the bar for the practice of their profession. In the meantime, however, professorships in law, somewhat evanescent in character, had been proposed at numerous institutions of learning, and had been actually established at William and Mary College, at Columbia College, when James Kent was called to a professorship, at Princeton, at the College of Philadelphia (later the University of Pennsylvania), at Middlebury, and at Transylvania.

The instruction given in these professorships bore little relation to the practical aims and needs of those seeking to enter the profession, and the time had not yet come for the penetrating analysis and reconstruction of legal doctrine which was to be the great work of the University Schools of Law of our own day, so that these early experiments failed for want of students and of popular support.

The first American institution which could be fairly described as a school for the training of lawyers was the private

enterprise of Judge Tappan Reeves, who established his school at Litchfield, Connecticut, in 1784. This, and numerous other similar enterprises which thrived during the first years of the nineteenth century, marked the transition from the stage of apprenticeship to the beginnings of University law study.

Harvard took the first step toward the founding of a school of law in 1817, a step, however, which was not effective in a real sense until Judge Story was called to the Dane professorship of law in that institution in 1830. In the meantime, in 1824, Yale College took over, as a department of the college, the private law school conducted by Seth P. Staples in New Haven. Thus began the long and honorable career of the Yale School of Law, the first century of whose existence and public service comes to a close during the present year.

That service has been marked by an elevated sense of duty to the profession, by a steadfast maintenance and steady improvement of its standards, and an active participation and capable leadership in the movement which, in our own day, is making our leading law schools in the United States, in the truest and best sense, University schools of law.

During the earlier and major part of the century just passed, American law schools treated somewhat lightly their University connections. They were the legitimate successors of the apprenticeship system of instruction in law. Their aspirations did not extend beyond the training of acceptable lawyers in the rudiments of their profession, so that they might pass their bar examinations and begin the practice of their profession. Rarely did their instructors take up legal research and investigation as a career. Often this work as teacher was a mere incident to the career of the practicing lawyer or the judge, or a reward bestowed upon the latter when he retired from judicial labors, to enjoy his ease with dignity.

To bring the study of law into its proper relation to the great enterprise of learning, which it is the function of the University to promote, and to make it worthy of the great task of systematic

analysis and the reconstruction of the common law which awaited it, it was needful that there should come a new and larger conception of the function of legal education—a conception which embraced, not merely a rule of thumb acquaintance with settled legal rules and doctrines for the use of the practitioner, but which aspired to bring to the service of mankind a more profound knowledge of legal principles and their more perfect adjustment to social and economic needs.

It was needful, too, if that conception was to be realized, that there should be at least a generation of preliminary study of the vast accumulation of precedent which constitutes the repository in which the legal learning of the last seven centuries has been stored, to the end that the doctrines of the common law might be stated with exactness and precision; that their origin and history might be traced; that the anomalies of the law might be segregated, their boundaries accurately defined, and some indication given of those particulars in which the common law lacks harmony and system.

It is now a full half century since it began to be evident that this new conception of law study was to be a dominant factor in guiding the progress of legal education in the United States. Whether its rise was due to the vision and faith of particular individuals, or whether the time had come when social and economic forces conspired to expand our views of law and its functions, and thus to impel us to renewed endeavors to solve its problems, just as the revival of commerce and industry led to the revival of the study of the Roman law, need not now be inquired. That that conception was formed, and that it has been the impelling and inspiring motive in the leading law schools of the country, steadily increasing in power for a generation, are the significant facts.

During that fifty years, we have been engaged in what I have already referred to as a preliminary study of the common law. The common law is pre-eminently a system of case law, whose doctrines have been generated, in each instance, by

the facts established in some particular litigation, and again molded and expanded, step by step, by the creative force of the facts established in other litigations. It is a law, each rule and precept of which has been generated by the clash of actual controversy, and by reason of the very nature of its origin and the method of its creation it is endowed with an extraordinary vitality, and it possesses, beyond all other systems, the advantages of flexibility and adaptability. But any system of law, whose rules are always created ad hoc, must, at its best, lack form and symmetry. Its development is not systematic; its precedents, because of the very method of their creation, sometimes lack the foundation of scientific and philosophical generalization on which all systems of law must ultimately rest, if they are to endure and do their appointed work. Its concepts, too, often lack precision and definition, and consequently they are not invariably used with certainty and precision, and the terminology with which they are expressed tends to become uncertain in its meaning and variable in its use.

This period of preliminary study, therefore, necessarily had to be devoted to an analysis of our law as case law, and to an investigation of its historical origins. We have penetrated the jungle of judicial decisions, tracing the pathways of principle, defining and seeking the explanation of the anomalous, and endeavoring, perhaps without entire success, to classify so much of the law as conforms to principle. The process has been one mainly of defining and systematizing our knowledge of our law as it is, in clearing away nonessentials, so as to disclose its underlying philosophy, and of noting the methods and processes by which the law has been built up.

To all this pioneer work of legal education this school has made worthy contribution. In recent years, too, its scholarship has rendered a peculiar and notable service in pointing out the need of a more precise definition and use of fundamental legal concepts in legal analysis, and in the statement of legal doctrine. This was a necessary step, if we are to rear upon the foundation which has been

laid the perfect structure of the common law. In thus challenging traditional modes of legal thought and expression, you have given a new stimulus to legal thinking; you have directed attention to our habitual laxity in the choice and use of legal terms, which encourage, if they do not always conceal, loose thinking. In so doing you have exhibited a spirit of scientific disinterestedness and of devotion to the fundamental principles of scholarship which are worthy of the best traditions of the University and of our profession.

Having come, now, to the point in the development of legal education when we are apparently at the conclusion of what may be referred to as "the period of survey" of the materials of the common law, is it possible for us, looking to the future, to discern how the fruits of that investigation may be used, and then to suggest what the immediate problems of legal education may be?

It was, perhaps, inevitable, in view of the professional and educational experience through which we have passed, that the traditional attitude of our profession toward the law should be that it is a body of technical doctrine, more or less detached from the social forces which have called it into being, to be studied and used in practice much as one studies and uses the rules of a game. In short, we have failed to recognize, as clearly as we might, that law, in the final analysis, is a method of social control intimately related to those social functions which are the subject-matter of economics and social science generally.

The common law is technically more highly developed than any other system of law, and the law teacher of the last generation, as he engaged in the task of analyzing our case law, not unnaturally directed his energies principally towards the exposition of the law in its more technical aspects. It is not surprising, therefore, that teachers of law, as well as practicing lawyers, in their effort to master the intricacies of the common law, should have become absorbed in the study and exposition of its technique, so as to have lost sight of its social function, and to regard it as a body of learn-

ing quite distinct from those social forces which created it, much as the scientist regards the body of natural law which he investigates as something distinct and apart from social organization and development.

We have now come to that point in our legal thinking when we have a clearer understanding of this relationship, and the necessity is becoming apparent of embracing, within the field of law study, an investigation of those causal elements in legal science, which are fundamental to the development of its technical doctrine.

Our most distinguished and capable teachers of law now recognize that we can no longer deal with law as though it were a hermetically sealed compartment of social science, to be explored and its principles formulated without reference to those social and economic forces which call law into existence, and from which law must derive its form and substance, if it is to serve adequately its purpose. Our problem then is, building on this solid foundation of knowledge of the history and technical organization of the common law, which the last generation has given us, to come to a clearer and more accurate understanding of the relation of law to these social functions, which it endeavors to regulate and control, and this must be accomplished by the study of the technical rules of law, as tools or devices placed in the hands of the lawyer, as the means of effecting that control.

This approach to the study of the common law involves, to some extent, the revision of the law curriculum in such a manner as to throw greater emphasis upon the co-ordination which the study of law from the aspect of social function brings about in the choice and use of technical legal doctrines, the tools of our profession, which, in the formulation of law school curricula, we have hitherto, too often, treated as being more or less unrelated.

Even more does it require, in the teaching of law, and in the formulation of its principles in legislation, in judicial decisions, and in the restatement of the law, which is the great task now under-

taken by our bar and by the law-teaching profession, that we bring to bear on the actual exposition and judicial declaration of technical legal doctrine a well-grounded knowledge of the social and economic phenomena of our times.

By far the greater proportion of our law relates to the institution of private property. Our dealings with property, which we accomplish through the aid of its legal incidents of ownership, alienability, and control by contract, constitute the subject-matter of the economics of modern business. The legal incidents of personality and family relationships, again deep-rooted in social institutions, constitute, for all practical purposes, the balance of our law. We cannot, therefore, proceed far with the investigation of any legal rule, nor can we, in the development of law, relate logic and history to the requirements of social utility, without dependence upon well-organized knowledge of social institutions and of the methods of their functioning.

Whether the requisite acquaintance with the economics of the modern business world and with social institutions is to come from an improved and more skillfully directed study of these subjects in American colleges, or whether law schools must take the initiative in bringing into closer relationship with their work, as at present defined, graduate studies in economics and social science, is one of the large problems in the field of legal education, to which no certain solution can yet be offered. But, whatever that solution may be, if it is brought about by the scientific spirit and scholarly devotion which actuates this school, as well as other leading university schools of law, the ultimate effect will be to bring our law closer to the realization of its true ideals of justice and utility. Moreover, I venture to predict that, in effecting that solution in that spirit, it will be found necessary for a considerable period to subject the data of economics and of the social science to critical examination and analysis, comparable in extent and in method to the analytical and historical study of law which has been made in the last generation. Upon the basis of such a study of social

phenomena, which I believe is yet to be made, we may hope to correlate the technique of law with our social, economic, and business institutions, both in practice and in the law school, in a manner which has not hitherto been possible.

The perfection of a system of substantive law does not bring with it, as a necessary incident, its wise or efficient administration. Substantive rules of law, however ideal in substance or in form, are not self-executing. Satisfactory law enforcement involves not alone the enactment of the law to be enforced. It involves the creation of an adequate machinery for enforcement and a procedure adapted to the translation of law at rest into law in action. It is idle for us to restate law, to create new laws by legislative action, if we do not set up adequate machinery for its enforcement, if we do not devise methods for securing the regular and constant functioning of that machinery, and if the laws which we do enact, however ideal in the realm of morals and in legal theory, cannot be adapted or adjusted to the available machinery of enforcement. We have been so absorbed in the great work of investigating what may be called "static law" that we have neglected the problems of the law in action. We have not been sufficiently concerned with the relation of the rules of right and duty which constitute our substantive law to the methods of making them effective in controlling human action, nor have we realized how fruitful a field of study it presents. We hear it said on every side that our system of enforcing law is breaking down; that through lax methods of administration of the law there is a failure of law enforcement, and a growing lack of respect for law. That the execution of our laws depends in the first instance on the vigor and fidelity of public officials, and upon the psychology and temper of the people, is undoubtedly true; but it is not the whole truth. It is likewise true that it depends, in a large measure, on the organization of law enforcement machinery, on the adaptability to it, on the one hand, of the law to be enforced, and, on the other hand, on its adaptability and that of the machinery of enforce-

ment to the popular psychology. We cannot go on indefinitely with the creation of new laws, leaving to chance, or to the cumbersome machinery of an outgrown administrative system, the hazard of their enforcement. Here is a wide and untilled field for study and for investigation, testing to the fullest extent our powers of observation, and calling for the exercise of all the resources of scholarship.

The extension of the functions of government into new fields of activity has developed enormously our administrative machinery, and has brought about the adoption of administrative devices in law enforcement, which have been steadily encroaching upon individual liberty in the supposed interest of celerity and efficiency of law enforcement. That, with the increasing complexity of government and its increasing contacts with the private citizen, the ancient methods of securing the legal rights of the government by litigation in open court cannot be adhered to in all cases, must be recognized; but it must be remembered also that one of the precious legal inheritances from eighteenth century England was the fundamental notion of personal right and liberty, which then colored all our legal thinking, and which found expression in our Bill of Rights and in the first ten amendments of the Constitution. That idea of personal liberty under law, so nobly conceived and so dearly won, must not be lightly surrendered in our zeal to secure effective administration at the expense of private right and of the independence of the individual. To preserve the essential principles of individual liberty, and to adjust to them a necessary and effective administrative system, presents to-day problems of law and of government of the first importance, the proper solution of which should be of the deepest concern to the American people. Those problems cannot be solved in the field of politics and legislation alone. They must have brought to bear upon them by our University Schools of Law and Political Science the same thoroughgoing research, the same analysis conceived and carried on in the spirit of science and scholarship, as have hitherto

been devoted to the problems of private law.

These, then, are the great problems which I conceive must in the near future engross the energies and the scholarship of this and other schools of law which aspire to lead in the sane and scholarly development of our law.

They will continue the work of analysis and research of legal doctrine so nobly begun. By the organization of their curriculums, by the emphasis of their teaching, by the co-ordination of their studies of technical legal doctrine with studies in Economics and Social Science, they will bring into closer and more appropriate relationship the technique of the law and the functions of organized society.

We look to them to extend the investigation of law from the study of its principles, as statements of rules of right and duty, to those processes by which those rules of law are translated into action, and by which law is made effective in the control of human action, to the end that the administration of law may keep pace with our ever-expanding facility in the creation of it. We look to them, by

the methods of science, by the force of scholarly and disinterested leadership, to point the way for the accommodation of our administrative system to the vital necessity of preserving in our legal system the fundamentals of personal liberty.

No nation can long endure, nor will it long deserve to endure, if it does not make its first concern the enactment of wise and just laws and strive for their honest and efficient administration. No nation can feel that concern whose people do not love justice and have faith in and respect for its institution for the administration of justice. It is for our profession and for our Schools of Law, which more and more voice the aspirations of our profession, to inspire that love and respect and to strengthen that faith.

It is for our Schools of Law to bring to the support and encouragement of popular sentiment for the observance of law and justice, and of the due and orderly administration of law, the benefits of an enlightened scholarship, the aid and guidance of science and zeal for the truth.

Admission to the Bar in France

By **JOSEPH DU VIVIER**

Counselor at Law, Paris

[The author of this article is an American despite his French name. For eight years he was Assistant District Attorney in New York under District Attorneys Jerome and Whitman. He is now practicing in Paris.—Editor.]

THE Bar in France, as elsewhere, is a very ancient institution. As early as the ninth century we find the beginning of legal procedure and men well versed in its use; in fact the feudal law soon became so rigid and complex that professional assistance quickly became well-nigh indispensable. The study of the law became systematic and imperative by the twelfth century. By 1327, the bar had become an official institution

and letters patent were granted by the king to certain practitioners and the bar became fixed in one place. By the time of the French Revolution, the lawyers had become a recognized class, and a very much hated class because of their alleged alliance with privilege. Abolished in 1790 by the Constituent Assembly the bar was re-established under the Napoleonic régime with modifications, and only fully restored by 1830, upon

the re-establishment of monarchy in France.

This historical development has had its influence to the present time. We are accustomed to think of admission to the bar as synonymous with permission to practice the profession of the law; but this is not the case in France, for the bar is separate and distinct from the legal profession and constitutes only a portion thereof. Advocates are admitted to the bar, but "avoués," or solicitors, and notaries, or "notaires," and "avocats-conseils," or counseling lawyers, are equally engaged in their practice of the profession of the law, and there are many lawyers engaged in the practice of their profession in France who never enter a courtroom, and in fact would be prohibited from so doing in any official capacity, should they so desire. We shall therefore limit this article to the admission of the advocates or barristers to the French bar and the qualifications or requirements exacted.

The preliminary qualifications are those that one would expect; i. e., that the candidate must be of French nationality and capable of exercising his ordinary civil rights. He must be of good moral character, must never have been convicted of a crime, and possess a license to practice, obtained from a recognized French law school. This latter is the equivalent of an ordinary law school degree in America. Curiously enough there is no age requirement and there is nothing to prevent a minor from being admitted, but the educational requirements in France are severe and no young man can hope to finish his preliminary college education before 18 or 19, to which must be added his compulsory military service, and as there are three years of law school training, no young man, however brilliant, can expect to present himself as a candidate for admission before the age of 22 or 23 years.

France has had the usual discussion of other countries as to whether a woman could be admitted to the bar. As late as 1897 a judgment was rendered that answered the question adversely, which brought about the enactment of a statute granting to women equal privileges with

men. There remains, however, an interesting survival or persistence of Old World ideas in that a married woman cannot be admitted to the bar without the consent of her husband.

Besides these preliminary and theoretical studies, the young candidate for admission supplements his studies by practical experience as a clerk in a law office of a "notaire," or notary, or "avoué," or solicitor, usually the latter, who is a specialist in procedure, and where the young candidate drafts papers and learns the intricacies of practice and the formalities required outside of a courtroom. As a general rule a year or two are thus spent and the candidate then formally submits his application to be inscribed on the roll of practicing barristers or advocates. He submits his "license-*en-droit*" or diploma, the necessary documents establishing his French nationality, and his civil status, etc. Thereupon, the "batonnier" or official and duly elected leader of the bar designates another member to investigate the candidate. The candidate calls upon the investigator who has thus been designated, and submits his papers establishing his character and qualifications. The call is returned to see that the surroundings in which the young candidate lives are suitable and sufficiently dignified for the exercise of the profession. This may seem strange to an Anglo-Saxon until one realizes that French advocates have no office or chambers, but practice their profession in their homes, like physicians or like the Roman lawyers of old. A young French lawyer must have his own domicile, where he is independent, to consult freely with his clients who may wish to retain his services, although it is possible for him to practice in the apartment of his parents if he is still living with them. But it is not considered etiquette for him to have his name on the door where he lives, the theory being that the relationship between the client and his legal adviser is necessarily such an intimate one that the former must know the latter's address.

After these preliminaries have been completed the candidate for admission is sworn in. This ceremony is principally

interesting because of the form of the oath employed, a form which has come down from many generations, for the postulant takes the oath: "I swear to say or publish nothing, either as defender or advisor, contrary to the law or the rules of good morals and the safety of the state, or the public safety, and never to be lacking in the respect due to the tribunal and to the public authorities." Like most oaths, a solemn and big undertaking, that any lawyer in any country may feel proud to have respected as an ideal and lived up to at the end of a long professional career. This oath is perpetual in its duration, although there is a custom, which is no longer based upon any legal requirement, for the lawyers present at the opening of the courts at the beginning of the judicial year to repeat the oath and thereby make a public manifestation of the renewal of their faith; a very ancient custom that dates from the Middle Ages and one which could be well adopted by us.

But the administration of the oath does not necessarily admit the candidate to the bar. It is but the beginning of a period of probation, or the "stage" as it is called—a period which lasts three years, during which the postulant must conduct himself in a suitable way, working with a regular and fully admitted member of the bar, or in the office of an "avoué," or solicitor, attending moot court, and generally acting as a young man acts for the first two years after his admission. He is then considered a member of the Order of Advocates, wears the ordinary professional gown and associates with his older colleagues, tries cases, usually criminal cases, that are sent to him by the "Assistance Judiciaire" or Legal Aid Service of the advocates. After three

years of this period of probation, the candidate is then permitted to petition that he be regularly admitted to fully practice his profession and that he be inscribed upon the list of members of the bar. This transcription is a simple but necessary ceremony and requirement.

Only those inscribed upon the official list of the Order of Advocates are truly members of the bar and this list is a correct list of men who are actually practicing their profession as members of the bar. "Once a lawyer, always a lawyer," is not true in France, and if a man changes his profession, goes into business or commercial enterprise of any kind, either as an officer, director, or employee, etc., he must have his name removed from the official list. If it is not removed, it is stricken from the list.

The lawyer must be wholly independent of his clients, must have no financial interest in any case in which he has been retained, is not permitted to sign or endorse a client's promissory note, can take no case on a contingent basis, nor sue any client for his fees, his compensation being on a purely honorarium basis. This does not prevent him from exacting a retainer and in fact the system of retainers is general and well-nigh universal.

The bar is small; in Paris there are about 3,000, and probably not more than 300 or 400 are receiving remuneration fully adequate to their talents and needs. These severe conditions and this difficult selective process make for a high standard in the profession, and any infraction of professional ethics is severely reprimanded by the "batonnier" or leader, who has wide disciplinary powers, which he does not hesitate to exercise.

Forward Tendencies in English Legal Education

By H. D. HAZELTINE, LLt. D.

Downing Professor of the Laws of England, University of Cambridge

[Presidential Address to the Society of Public Teachers of the Law at its annual meeting held in the Law Society's Hall on July 12, 1923. Reprinted from the Journal of the Society of Public Teachers of Law, 1924.]

I.

WE are holding our present meeting in a year of anniversaries. Two hundred years ago Blackstone was born; fifteen years ago our Society of Public Teachers of Law in England and Wales was founded. I venture to think that the second of these events is not unconnected historically with the first. The long history of English legal education—from the early days of the profession, when students learned their law in the court and "the Crib,"² down to the present activities of our academic and professional schools—ought some day soon to be written in detail.³ Here surely is a fascinating and instructive field of historical inquiry. For the moment, however, let us do no more than glance at the period since the chancellorship of Lord Somers (1693–1700); and let us note, first of all, that the somnolence of the early and middle parts of the eighteenth century in matters of legal education⁴ gave place at length to an awaken-

ing of interest due, in large measure, to the teaching of English law at Oxford by the great commentator.⁵ The development since Blackstone's time, familiar in its main outlines to us all, may be described—not unfairly, I think—as a record of steady progress. The time has long since gone by when any lawyer could begin his professional career—as a West Indian lawyer in former days once did—with the sole equipment of "a slender law library and a pipe of old Madeira."⁶ The Universities have devoted increasing attention to education in its legal aspects; while both branches of the profession have taken steps, from time to time, to give expression to the view that the practice of law demands men who have trained minds. In this slow process of legal educational reform in England and Wales⁷ since the time of Blackstone, the organization of our Society in 1908 marked the beginnings of a new stage.⁸ Indeed, it is not going too far to say that, in the seven centuries of English education in law, from the founding of academic and professional institutions in the middle age to our own day, the last fifteen years, despite the set-back caused by the war, stand out in bold relief as a period of notable progress. The work of Blackstone and of other great law teachers—at Oxford,

² See Year Books of Edward II (Selden Society), vol. II, pp. xv–xvii; vol. III, p. xxii; Bolland, *The Year Books*, p. 19. In more recent times students have had their "box." "I began my legal studentship in the last days of Lord Kenyon," Lord Campbell tells us in his *Lives of the Chief Justices of England* (vol. III, 3d edition, p. 189, note). "The court at Westminster was so constructed that we could have no communication with him; but I have a lively recollection that at Guildhall, the students having a box close by him, he handed the record to us, and he would point out to us the important issues to be tried. I do not know that he ever publicly alluded to our presence."

³ In the new edition of his *History of English Law*, Dr. Holdsworth gives us considerable information on certain periods and aspects of the development.

⁴ See, e. g., Clark, *Cambridge Legal Studies*, p. 76; Holdsworth, Charles Viner and the Abridgments of English Law (1923) p. 8. On Lord Mansfield's legal education, see Campbell, *op. cit.*, vol. III, pp. 185–190. It is reported—by Boswell and Lord Campbell—that in the midst of his severe private studies in London he "drank champagne with the wits."

⁵ For the advertisement of Blackstone's *Pre-Vinerian Lectures* (1753), and of his *Inaugural Lecture as Vinerian Professor* (1758), see Holdsworth, *op. cit.*, pp. 27, 28.

⁶ Atlay, *Victorian Chancellors*, vol. II, p. 81.

⁷ The first step for the provision of legal education in Wales was taken in 1898. See Levi, *Legal Education in Wales* (1916).

⁸ Dr. Holdsworth deals with certain aspects of this development in his *Place of English Legal History in the Education of English Lawyers* (1910).

Cambridge and elsewhere—who have carried on the tradition which he inaugurated, has resulted at last in an increased interest in university and professional legal studies.⁹ We have ourselves witnessed the molding of curricula and of methods of instruction and study to meet, at least partially, the needs of the twentieth century. Let me not be misunderstood. I do not contend—nor do I think that any one would be bold enough to contend—that the millennium in English legal education has at last been reached. All I wish to say is that in the last few years substantial progress has been made along certain lines—that a fresh forward movement has been inaugurated. This new epoch of growth is as yet only in its beginnings; to employ a simile drawn from nature, legal education is once more in a state of budding. Care must be taken, however, lest at no very distant date it be said, in Shakespeare's words, that

"The most forward bud
Is eaten by the canker ere it blow."

In the advance that has been made the members of our Society have played a prominent rôle. Let us take counsel together, therefore, to the end that the cause of justice, protected and furthered by the teacher not less than by the practitioner and the judge, may be even more worthily served in the years to come. In the *De Laudibus Legum Angliæ*, Sir John Fortescue used words which we might perhaps take as an expression of our ideal. Speaking of the "general study of the laws of England," in the inns of Court and of Chancery, the law schools of his time, Fortescue remarked that it was "pleasant, excellently well adapted for proficiency, and every way worthy of esteem and encouragement." Many problems now await solution; some of them are urgent. Let it not be said by the future historian that the bright prospects of our day came, after all, to naught. The idea is growing that scientific training in a law school is indispensable, that it should precede, or at least accompany, practical training in

chambers or office.¹⁰ The latest expression of this idea is to be found in the Solicitors Act, 1922, which provides for the compulsory attendance of articled clerks, for a period of one year, at a "course of legal education at a law school provided or approved by the Law Society."¹¹ A heavy responsibility rests upon the members of our Society, both individually and collectively, to foster this idea, to cultivate, by every proper means, this "forward bud" of legal education. Let us not shirk it.

In the few moments at my disposal I should like to remind you of certain forward tendencies, and to invite your attention to a study of some of the means which I think might be adopted, to make our Society a more potent factor in the present progressive movement; and I may make a beginning by reading a few words in the written constitution of the Society which was formulated and adopted in 1908. In this instrument there is one sentence which overshadows all the others in importance; it embodies, indeed, a record of past work and a programme for the future. "The objects of the Society," it is declared in rule 2, "shall be the furtherance of the cause of legal education in England and Wales, and of the work and interests of public teachers of law therein, by holding discussions and enquiries, by publishing documents, and by taking such other steps as may from time to time be deemed desirable." If I correctly interpret these words, they mean the Society has two main objects: (1) "The furtherance of the cause of legal education in England and Wales"; (2) the furtherance "of the work and interests of public teachers of law." These two objects are not, in all

¹⁰ No one questions the necessity of the student's practical work; but many of those who have studied the problem now hold that the training in a law school should, if possible, precede the work in chambers or office. Lord Bowen's experience as a student in chambers (see Manson, *Builders of Our Law*, p. 406) might have been different, if he had enjoyed a prior law school training under competent and inspiring teachers. The general attitude of the profession in the United States of America during the last two or three decades is expressed by Mr. Justice Holmes when he says that "the place for a young man to study law is a law school, not a lawyer's office." See *Collected Legal Papers* (1920), p. 155.

¹¹ See further, the Annual Report of the Council of the Law Society (June 1, 1923) pp. 17-22, 27-28.

⁹ The zeal of the Law Society in the work of improving the legal education of articled clerks is worthy of special notice.

respects, identical, and yet they are very closely related. Taking these two objects as the basis of my remarks, I should like to ask this question: How may these objects be attained in the future by the means set forth in our constitution—the holding of discussions and enquiries, the appointment of committees, the publishing of documents, the taking of such other steps as may from time to time be deemed desirable?

Let me remind you, in the first instance, of our system of committees. For some time the increasing activities of the Society have resulted in a growth of this system. The General Committee has been from the first the central administrative organ of the Society, and as such it has most important functions to fulfil. But from time to time various other committees have been appointed for special purposes. At our meeting to-day we have heard the reports of three such bodies—the Committee on Case Books, Year Book Study, and the proposed Journal. Have we not reached the point at which this system of committees might, with advantage, be expanded? If our Society is to attain its main objects in the fullest measure, ought we not to entrust certain matters to permanent committees, which would carry on their work in co-operation with the General Committee and be responsible to it and to the Society itself? There are two such committees which seem to me to be greatly needed.

II.

Inasmuch as the primary purpose of our Society is "the furtherance of the cause of legal education in England and Wales," I suggest that it is desirable to establish, and at no distant date, a permanent committee charged with the duty of making enquiries from time to time as to the state of legal education and of reporting the results to the General Committee and, ultimately, to the Society. Among the subjects that would naturally fall within the scope of the enquiries of such a "Committee on Legal Education" are the following: (1) The character and amount of pre-legal education required of students before they are per-

mitted to enter upon the study of law in university and professional schools; (2) the nature and scope of the subject-matter of the legal curriculum itself; (3) the nature and practical working of the methods employed in legal instruction and study; (4) the facilities offered to students of the higher type for advanced and research work in law.

Various other subjects, closely related to one or more of these four, readily suggest themselves. Among them are the problems of the period of legal study to be required of candidates for university degrees or for entry into the legal profession, the question as to the recognition by one school of work already done by a student at another school, and the matter of granting exemptions from professional examinations on the basis of legal studies at university and professional schools. This bare catalogue will sufficiently indicate, I hope, that there are a number of important matters which might profitably engage the attention of the "Committee on Legal Education," and later of the Society itself. At the present time the various schools, both academic and professional, which are represented by our members seem to me, and I have little doubt they seem also to you, to be working far too much in isolation one from another. Many, even if not all, of the problems I have mentioned are of equal interest and importance to the majority of the schools represented in this Society; and there is need for the closest touch and co-operation between "university" and "professional" law schools.¹² There would be an enormous gain to each one of us, and

¹² There are, no doubt, at the present time certain differences between "university" and "professional" law schools in respect of aims, studies, and methods. But, so far as training for the legal profession is concerned, the purpose of both kinds of schools is identical. One of the marked tendencies of the time is the amalgamation or concentration of "university" and "professional" legal studies at certain of our centres of public legal education. This process gives rise to various problems, e. g., the inter-working of the Law Faculty of the University and the Board of Legal Studies. See, e. g., the Report of a Special Sub-Committee (University of Liverpool; Liverpool Board of Legal Studies), June 1920, on the relations between Boards of Legal Studies and the Universities with which they co-operate. The fundamental problem for the future would seem to be the preservation and development of both university and professional ideals, without the sacrifice of either one of them.

thus to the schools in which we are severally at work as teachers of law, if we could be informed of the progress of all the schools, and if, in informal and friendly counsels; we could bring our special knowledge and experience into the common stock.

Our first care must be, of course, the study of conditions and problems in our own schools. But in the sphere of legal education, not less than in that of law itself, comparison is most valuable. Our studies should embrace, therefore, the systems of legal education in force in the other communities of the Imperial Commonwealth,¹² in the United States of America,¹⁴ and in foreign countries. Without some special and periodical investigation of the kind I have suggested, no one of us is able to keep abreast of the tendencies in legal education within these various regions of the world. Even if we do not attempt to inform ourselves of the state of legal training in continental and other foreign countries—although, in my judgment, we ought not to neglect this aspect of the matter—we should, at least, be conversant with the important features of legal educational progress in Scotland, Ireland, the Dominions, and the United States. In these communities some at least of the problems which face the legal teacher are similar to our own. Especially from those countries where

the basis of jurisprudence is the English common law, we may derive many helpful suggestions in regard to such matters as the improvement of our standards of pre-legal study, the character and scope of the curriculum, the methods of instructor and pupil, the encouragement of advanced and research work. If the "Committee on Legal Education" were a permanent and active body, nearly all of the matters I have mentioned could be reviewed periodically.¹⁵ I feel sure that this system of inquiry, report, and discussion would bring to us continuous and fresh currents of thought on the subjects which concern us, and that it would have a quickening and inspiring effect. It would help to consolidate our views and activities. It would make for a progressive evolution of our system of professional and juristic training in harmony with the ever-changing needs of the times. There would also be much gain to us all if we could bring into our counsels some of the leading law teachers of the Dominions and of the United States of America, and in such an arrangement there might also be advantages to them.¹⁶ We welcome to-day a distinguished teacher, jurist, and judge,¹⁷ and also another prominent member of the bench,¹⁸ of Australia.

A short time ago I requested several of our members to supply me with the latest information in regard to the progress of the schools in which they are teachers. Their ready response, for which I am grateful, has placed me in possession of valuable material, which I have not as yet had opportunity to master in all its details. I have convinced myself, however, of the desirability of mak-

¹² See, e. g., the address by Professor Herbert A. Smith, of McGill University on "Legal Education in Canada" (Handbook of the Association of American Law Schools and Proceedings of the Nineteenth Annual Meeting, 1921, pp. 106-115).

¹³ On the most recent developments in American legal education, see Reed, *Training for the Public Profession of the Law* (Carnegie Foundation for the Advancement of Teaching, Bulletin No. 15, 1921); *The Progress of Legal Education*; The Washington Conference [on Legal Education] and the Association of American Law Schools (Advance Extract from the Seventeenth Annual Report of the President of the Carnegie Foundation, 1922); Handbook of the Association of American Law Schools and Proceedings of the Annual Meeting, vols. for 1921 and 1922; *The American Law School Review*, vols. 4 (1921-1922) and 5 (1922-1923); and the latest numbers of the *American Bar Association Journal*.

For a complete Report of the Proceedings of the Special Session on Legal Education of the Conference of Bar Association and Law School Delegates at Washington D. C., February 23-24, 1922, see *Massachusetts Law Quarterly*, Special Number, July, 1922. See also the *American Bar Association Journal*, March, 1922, and the *American Law School Review*, May, 1922.

Reed, op. cit., contains information on legal education in England, Canada, and continental European countries.

¹⁴ In the Annual Address of the President of the American Association of Law Schools in 1921 (see Handbook of the Association, 1921, pp. 143-155), Professor A. L. Corbin, of the Yale Law School, remarked: "Just as radium and relativity are causing a re-examination of all the most fundamental assumptions of physics and chemistry, so changing social conditions are requiring us to scrap many of our most cherished legal dogmas. The method and the purpose of legal education must be continually submitted to the test of critical discussion in the light of new experience."

¹⁵ The Law School of McGill University, in Canada, has recently become a member of the Association of American Law Schools.

¹⁶ Dr. Jethro Brown, now President of the Arbitration Court of South Australia.

¹⁷ Mr. Justice Cussen.

ing the systematic enquiries which I have suggested. Even a superficial examination of the available documents shows one that at several centers of public legal education important changes have recently been made or are now in progress.¹⁹ We should all be informed from time to time of such matters and should have the opportunity of studying together some of the questions of common concern. I trust that at to-day's meeting you will not expect me to deal with even one of the questions raised by the materials which I have collected; for I am not unmindful of the truth of Lord Coke's wise remark that some "questions [are] like spirits which may be raised with much ease, but suppressed and vanquished with much difficulty."²⁰ The "vanquishing" of questions must rest with the "Committee on Legal Education," when it settles its task. Confining myself to the easier part of Coke's sentence, I should like to make a beginning of the work I have outlined by raising a few questions and making some very general observations.

Even a casual examination of the existing requirements for admission to our law schools, and for entry into the two branches of the profession, might well lead one to the view that the standard of pre-legal study in this country, if compared with that in certain other jurisdictions of the common law, is surprisingly low.²¹ One realizes, of course, that the problem of the general education to be exacted of law students is inextricably

interwoven with many other problems of university and professional life. But there are some features of the English educational system which are, in large measure, the survival from former times and are retained solely by reason of a strong spirit of conservatism. We are living, however, in an age of educational reform. Is not the time opportune for a serious consideration of that aspect of the educational system which concerns the general culture of the young men and the young women who are to become barristers and solicitors? In certain of our schools of law there seems to exist an alertness as to the importance of this matter. In some of them subjects of general education, which are important at the present day to the maintenance of the utility of the profession in social and economic life, such as political science and economics, are included in the legal course of study itself;²² and this policy is consonant with the practices of many of the leading law schools of the Continent; for example, the law school of the University of Paris. In at least one of our own schools the new regulations²³ require one year's collegiate training in arts or science, subsequent to matriculation, as a preliminary to entry upon studies for the degree of LL.B. To my own mind this is a notable step in advance.²⁴

¹⁹ See, e. g., the Prospectus of the Faculty of Law in the University of Manchester, Session 1922-1923, p. 5; and the Prospectus of the Faculty of Law in the University of Liverpool, Session 1922-1923, p. 20.

²⁰ University College of Wales, Aberystwyth, June, 1923.

²¹ The whole tendency of recent progress in the United States has been in the direction of raising the standard of pre-legal study. The standard at present is the requirement of at least two years of collegiate study prior to admission to a law school. See the text of the Resolutions of the Washington Conference on Legal Education (February, 1922) in the Massachusetts Law Quarterly (Special Number, July, 1922, pp. 143, 174), and also the Address of Professor J. P. Hall, the President of the American Association of Law Schools in 1922 (Handbook of the Association, 1922, p. 162). The requirements of some schools are still higher. Thus, at the present day, only those men will be admitted to the Harvard Law School as candidates for the degree of LL.B. who are (1) graduates of colleges of high grade; (2) graduates of other colleges of approved standing who ranked in the first third of the class on the work of the senior [that is, last collegiate] year. Men will be admitted as "special students" [that is students who are not candidates for a degree] who are graduates of approved law schools having a three-years course of study for their degree.

²² Thus, for example, the new scheme for the Law Tripos at Cambridge, which came into force in the academic year, 1922-1923, provides for four years of legal study: First year (Qualifying Examination); second and third years (parts I and II of the Law Tripos; B. A.); fourth year (post-graduate; LL.B.). New regulations for legal subjects have recently been issued by the University of London and the University College of Wales, Aberystwyth.

²³ 10 Rep. 29a.

²⁴ For the United States of America, see Reed, Training for the Public Profession of the Law (Carnegie Foundation, Bulletin No. 15, 1921), Index s. v. "General Education"; The Progress of Legal Education: The Washington Conference [on Legal Education] and the Association of American Law Schools (Advance Extract from the Seventeenth Annual Report of the President of the Carnegie Foundation, 1922). Dr. Nicholas Murray Butler's address on "Preliminary Education for Lawyers," delivered at the annual meeting of the American Bar Association in 1922, is suggestive. See American Law School Review, November, 1922, pp. 13-16.

I may remind you that several of our law schools have recently made, or are now engaged in making, important changes in their legal curricula. As a result of these developments, the useful "Handbook of the Legal Curricula pursued at the various Centers of Public Legal Education in England and Wales," which was issued a number of years ago by our Society, is now, in large measure, antiquated; and one of the fruits of the work of a "Committee on Legal Education" should be the revision and reissue of this "Handbook" from time to time. Some of the important problems, in this matter of the legal curriculum, concern the proper place and the relative importance of certain subjects of study, such as Roman Law, Jurisprudence, Comparative Law, Public and Private International Law, Roman-Dutch Law, the English Law of Property, English Civil Procedure, and English Legal History. At what point in the law school course ought these subjects to be studied? How much time should be devoted to them? What methods should be pursued in their study? You will readily see how instructive and valuable to us all a thorough investigation of these and similar problems might be made. Let me refer briefly to four of the subjects I have mentioned.

In respect of the teaching of Public International Law, Great Britain is backward; and this is surprising in view of the evergrowing importance of the subject itself and the great place which this country holds in international life. While Public International Law is taught, either as a compulsory or an optional subject, in several of our schools,²⁵ and also in schools of Scotland and Ireland, it is most inadequately endowed. Within the British Isles, only at Oxford, Cambridge, and Edinburgh are there professorships in the subject at the present time, and at Edinburgh the Professor teaches Jurisprudence as well as International Law.²⁶ I hope you will agree

with me that this is a matter of urgent importance. Many members of the legal profession are, I fear, either indifferent or sceptical. Can we not do something to arouse an interest in the due recognition of Public International Law as a subject of historical, theoretical, and practical importance?²⁷

Another subject which might profitably engage our attention in the immediate future is the teaching of the English Law of Property. Our labors as teachers will soon be lightened by the use of the collection of cases on Real Property, which one of our committees has edited; but our problem has at the same time been complicated by new legislation. The Law of Property Act, 1922, with its profound modifications of the existing law, has introduced special difficulties for the teachers of our schools.²⁸ Would it not be wise for us to take counsel together in order that at least some of these difficulties may be resolved, or at any rate be seen in a clear perspective? As soon as the proposed consolidating legislation has been introduced and passed, this problem of teaching Real Property will be urgent.²⁹

It is most gratifying to observe that the important subject of English Legal History is at last receiving its due place of prominence in the curricula of several of our schools. The Report of the "Sub-Committee on the Study of Year Books

ternational Law. There are many professorships in the subject; there is a large endowment; there is constant and fruitful activity in academic and professional circles. See, e. g., Gregory, "The Study of International Law in Law Schools" (offprint from the American Law School Review of May, 1907); Reed, op. cit. 1921, Index s. v. "International Law."

²⁷ Mr. Whittuck's valuable paper on "International Law Teaching" (The Grotius Society, Vol. III, 1918, pp. 43-59) ought to be carefully studied.

Professor Higgins' equally illuminating contribution to the discussion of this problem—a paper read at a recent meeting of the Cambridge Law Club—will soon be published in the Law Quarterly Review. [L.Q.R., October 1923—Ed.]

²⁸ The masterly presidential address to our Society in 1921 by the late Professor Geldart, on "The Law of Property Bill and the Teaching of Law," can now be read in the Law Quarterly Review, July, 1923.

²⁹ Annual Report of the Council of the Law Society (June 1, 1923), p. 25: "Since the [Law of Property] Act was passed it has been suggested that the Council should organize lectures upon it. It was generally agreed, however, that in view of the consolidating legislation which the government have stated they are about to introduce, any steps to assist the profession should be postponed until after the consolidating legislation has passed."

²⁵ Thus, for example, under the Council of Legal Education, in the Inns of Court, instruction is given by the Reader or the Assistant Reader in "Roman Law, Jurisprudence, International Law, Conflict of Laws."

²⁶ In the United States of America great interest is taken in the matter of instruction in Public In-

and other Medieval Sources of English Law," which has been considered at today's meeting, indicates that as a Society we are alive to the need of encouraging the study of English Legal History in our schools. Various problems in connection with the teaching of this subject will arise; for example, the question as to the proper scope of the subject in the studies of honours candidates, and the question of the work of research students.³⁰

The increased attention paid to the subject of Roman-Dutch Law in English legal education is a matter for congratulation, indicating, as it does, that several of our schools are alive to the importance of teaching, in the heart of the Imperial Commonwealth, not only Hindu and Mohammedan law but also the history and principles of a great legal system still in force in South Africa. The establishment of new teaching posts in this subject, and the finding of a place for it in examinations for degrees, show us that a new stage has been reached in the evolution towards the ideal of making England the center of imperial legal studies, even though the founding of a new Imperial Law School in London seems as far off as ever.

The problem as to the duration of the law school course is one of great importance. It ought, at some future time, to be carefully studied. Two aspects of this problem must of course be distinguished: (1) The duration of legal study required by universities of candidates for their degrees; (2) the duration of law school study required by the professional bodies prior to call to the Bar or admission to the Roll of Solicitors. The standard of some of our universities, in this respect, is at present high. No requirement of attendance at a law school—not even attendance at the lectures and classes provided by the Council of Legal Education—is made by the Inns of Court. The Solicitors Act, 1922, marks a step in advance, by requiring the attendance of articulated clerks "for a period

of one year at a course of legal education at a law school provided or approved by the [Law] Society."³¹ Measures have already been taken by the Law Society for the administration of the scheme of legal education contemplated by the act.³² Among the schools already "approved" are several of the university law schools.³³

I now pass to one of the most vital matters for our future consideration—the problem as to the best method, or methods, of teaching and studying law. The traditional English method of instruction—a combination of the "lecture" and the professorial or tutorial "class"—is still the one that is commonly employed.³⁴ But observations extending over a number of years, as well as recent and special enquiries, lead one to the conclusion that at least two important changes are gradually being made in several schools. First, there is the tendency to make the lecture far less formal than it used to be. This, surely, is a tendency in the right direction. In our present age of text-books the older type of lecture—the lecture which amounts only to a slow, laborious and monotonous dictation of the lecturer's written notes—is archaic. Long ago Plato, in the Republic, pointed the way to a higher type of

³⁰ Compare (see p. 7, note 3, supra) the Resolutions of the Washington Conference on Legal Education (February, 1922):

"We indorse . . . the standards with respect to admission to the Bar, adopted by the American Bar Association on September 1, 1921:

"Every candidate for admission to the Bar should give evidence of graduation from a law school complying with the following standards:

"(a) It shall require, as a condition of admission at least two years of study in a college.

"(b) It shall require its students to pursue a course of three years' duration if they devote substantially all of their working time to their studies, and a longer course, equivalent in the number of working hours, if they devote only part of their working time to their studies."

³¹ The passing of the Solicitors Act, 1922, is resulting in a considerable extension of the system of legal education already provided by the Law Society through its own Law School in London and grants to provincial centers.

³² Oxford, Cambridge, London, Leeds, Liverpool, Manchester, and Sheffield. See further the Annual Report of the Council of the Law Society (June 1, 1923), pp. 17-22, 27-28. [According to their latest leaflet, dated December 21, 1923, the Law Society have also recognized Birmingham, Bristol, Armstrong College, Newcastle-upon-Tyne, and the University Colleges of Exeter, Aberystwyth, Bangor, Cardiff, Swansea, and Southampton—Ed.]

³³ For the position in 1909, see my address on "Legal Education in England" (Transactions of the American Bar Association for 1909, pp. 879-940).

³⁰ Important suggestions were made in 1910 by Dr. Holdsworth. See The Place of English Legal History in the Education of English Lawyers; a Plea for Its Further Recognition, pp. 23-26.

lecture. "Education is not at all what certain of its professors declare it to be," said Plato. "They tell us that they put Knowledge into an empty soul, as though one should put sight into blind eyes. Our theory is of quite another kind. [There is] this faculty of Reason present in every human soul, this organ wherewith each man learns. * * * Education is therefore the art of converting the Reason."³⁵

The lecturer of to-day ought not to be an oral text-book. His function is a very different one—to inspire interest, to give a reasonable amount of information, to assist in resolving difficulties, to train the mind in the processes of legal reasoning. The teacher is put in his high place of trust and influence not merely to inform, but also to develop, the mind of the student in lawyerly methods of thought and to infuse high ideals as to the purposes of law on the life of society. One need not hesitate to characterize the typical old-fashioned dictation-lecture—dictation in distinction from the laying of emphasis upon leading points or principles—as "cramming" pure and simple. As Lord Bowen once remarked, "instruction ladled out in a hurry is not education."³⁶ One is reminded, indeed, of the professor in Samuel Butler's *Note-Books*, who was "looked upon as such a valuable man because he had done more than any other living person to suppress any kind of originality. 'It is not our business,' he used to say, 'to help students to think for themselves—surely this is the very last thing that one who wishes them well would do by them.'"³⁷ I believe that the days of the old-time lecture by dictation—so easy for the lecturer, so tedious and deadening to the student,³⁸ are numbered. Something far better in the way of lecturing is now taking its

place. Freed from his bondage to notes, the lecturer has time and opportunity to devote himself to the true function of his calling; freed from his slavery to pen or pencil, the student has time to think, he can use and develop his mental powers in the mastery of principles as applied to the facts of life.³⁹

The lively, informing, inspiring, mind-developing lecture of the informal type—the type of lecture which is gradually displacing the old formal dictation—easily shades off into the professorial or tutorial "class"; and the greater reliance now placed on this form of legal instruction and study in several of our schools⁴⁰ seems to me to be the second of the two main tendencies of to-day in the matter of method. Rightly conducted, the small informal class is one of the most important agencies in legal education, for in such a class there is opportunity for conversation and discussion—the play of mind on mind which is so valuable a feature of the Socratic method.⁴¹ It is here—in the informal professorial or tutorial class—where decided or hypothetical cases, as the basis of discussion, play an ever-increasing rôle of importance.⁴² Our own collection of cases on Real Property ought to serve a most useful function in such classes. If this case-book is generally used by our teachers and students, as no doubt it will be, we

³⁵ Thus, for example, in the law school of the University of Leeds duplicated summaries of the lectures are distributed to the students when they assemble thus enabling them to give their undivided attention to the lecture.

³⁶ See, e. g., Henry, "The Teaching of Law at Oxford" (*American Law School Review*, May, 1922, pp. 135-139).

In my remarks in regard to the dictation-lecture, I have not meant to assert that this form of instruction is always employed for purposes of "cram." Some dictation-lectures embody learned and valuable matter far removed from the taint of superficiality. But the fundamental objection to the dictation method applies also to such lectures, namely, that the lecturer and the student become automata, the one dictating and the other writing during the entire hour, and thus have no time for thought and the development of the mind.

⁴¹ In his address as President of the Society of Public Teachers of Law for the year 1919-1920, Dr. Jevks justly remarks that "contact of mind on mind is the essence of all teaching, formal or informal." See "The War and Legal Education" in the *Law Quarterly Review*, October, 1920, pp. 429-433.

⁴² One of the clearest statements in our legal literature of the value of the study of cases is to be found in the Preface to the Ninth Part of Coke's Reports.

³⁵ Quoted Adam, *The Religious Teachers of Greece*, p. 410.

³⁶ Quoted Manson, *Builders of Our Law*, p. 411.

³⁷ The *Note-Books* of Samuel Butler, Author of "Erewhon," edited by Henry Festing Jones, 1912, pp. 292-293.

³⁸ While in court as clerk of session, Sir Walter Scott sometimes "wrote letters under cover of the lawyers' long speeches," as he himself has told us in his *Journal* (I, 1890, p. 366). See, also, Gest, *The Lawyer in Literature*, p. 75. One suspects that many a student has done the same, under cover of his lecturer's endless dictations.

might turn our attention to the production of similar books on other branches of the law.

I have time to say only a word about the important subject of advanced and research work. Not all of our schools are at present organized and equipped to undertake the guidance of students who desire to engage in work of a more specialized and advanced type. It may well be that, in the natural course of events, the cultivation of this aspect of legal education will be restricted to a few highly-favored centers. But let us not forget that in the wise encouragement and training of especially gifted men lies one of the chief hopes of the future. With the progress of our schools and the increase in their number there exists already the special need of training young men to be legal teachers. Let us study the best means of educating these men along the paths of accurate scholarship and proficiency in the art of teaching; for the thorough education of young public teachers of law will result in great gain to our schools, the enrichment of legal literature, and the welfare of the profession.

I have now outlined, in a general way, the kind of work which in my judgment, a permanent "Committee on Legal Education" might be invited to undertake. There arises, however, a very practical consideration, and as to that I will add only one or two observations. Even if we do study, year by year, certain of the vital problems in legal education, and even if we do reach general conclusions on the policy to be pursued, what practical effect, it may properly be asked, are these conclusions to have? The answer, it seems to me, is to be sought in the nature of the system of legal education in force in this country. As a Society we are merely a group of individuals; collectively we wield no powers that can make effective the views which we hold. In respect of legal education our powers as a Society are purely consultative and advisory; and yet, I venture to think, herein lies our true strength. The schools which we as individuals represent, but which as a Society we have no power to bind, are themselves set within

still wider machineries of academic or professional character; and these schools and these machineries must be moved if lines of policy which we deem to be wise are to be carried out in practice. Our own first steps must be those of investigation, discussion, formulation of policy; and all of these measures lie within the compass of our functions and powers as public teachers of law. Once we have taken these steps, once we have reached our own conclusions, the rest ought not to be difficult. Our Society holds a unique position in the university and professional life of the community, due to the fact that it contains by far the great majority of those members of the legal profession who are immediately concerned, as teachers, with university and professional training in law. I venture to think that, as a Society, we possess a place of confidence and influence in the community; and, if we express definite and reasoned views on the subject of legal education, I am sure that they will receive friendly and sympathetic attention on the part of the universities and the professional bodies. Let us approach our task in this spirit.

III.

Hitherto I have dwelt upon the first of the two main objects of this Society—"the furtherance of the cause of legal education in England and Wales"—and upon certain of the means we might employ to attain this end. Let us now consider the Society's second object, the furtherance of "the work and interests of public teachers of law." Their "work" and their "interests" are directly and permanently concerned with legal education, but, unquestionably, they are at the same time broader than the training of young men and women for the profession. Owing to their special position in the profession, and in the life of society, legal teachers have duties and responsibilities which bind them very closely to legal scholarship and authorship; and they are also intimately concerned, together with other elements of the community, with the progressive development of the substance and form of the system of jus-

tice.⁴³ There hardly exists in our language a word that will precisely describe the public teacher of law in this broader aspect of his calling. In lieu of the right word one might perhaps describe him as a "jurist," if this much used and much abused word be interpreted aright. It is clearly the duty of the teacher-jurist to edit and to write books of the law,⁴⁴ to make his contribution to legal scholarship and literature, but it is equally his duty to take an active and effective part in the molding of the law's traditional body of principles and practices into a closer conformity with the ever-changing needs of the community. Broadly speaking, the teacher-jurist's work in these respects has to do with the amendment of the law and improvement of the whole system of justice. Part of his work should be critical; part of it should be constructive. Indeed, the teacher-jurist's familiarity with the history and principles of legal systems lays upon him an unusual obligation; that obligation is to point out the obsolete and defective parts of the English legal system and to frame projects and devices for its betterment as an instrument of human justice. In these aspects of his work he is, moreover, intimately allied with others who are engaged upon the same task. He is, in fact, a co-worker with the men who are performing the administrative, judicial, and legislative functions of the state. In the evolution of a more perfect system of justice he is, or should be, a factor of influence and importance.

This influence of the public teacher of law on legal development is no novelty of our times. In many epochs of history and in many parts of the civilized world, from the age of antiquity to our own day, great schools of law have exercised marked influences upon the development of legal institutions. The work of the

glossators and post-glossators in the middle age effected profound changes in the legal systems of Europe. Consider, for example, the contribution made by the post-glossators or "commentators," and especially by Bartolus (1314-1357), to the process of adapting the old law to the changing conditions of the life of their times. In English history consider only the influence of the older schools of teachers in the Inns of Court and, at a later time, of Blackstone. These men were occupied, not only in teaching law to beginners in legal science, they were engaged also in molding the law itself; and their work was destined to leave a distinct and permanent mark on the common law in all those scattered jurisdictions of the world where it is the basis of justice.

In our own day there is a fresh call to public teachers of law to render a similar service—the service of helping to inspire and guide great legal movements. Looking beyond the four seas, one finds that in many civilized communities the teacher-jurist is taking an ever-increasing part in the work of modifying the law into conformity with the social and economic conditions of our age. In the United States of America public teachers of law have long been engaged in helping to solve, as juristic statesmen, some of the fundamental problems connected with the administration of justice in a vast and ever-expanding community.⁴⁵ Within this very year 1923 an important group of lawyers and statesmen has formed the American Law Institute, with the object of studying these problems more intensively, and of introducing into the legal system the needed remedies; and in the work of this Institute public teachers of law are taking a prom-

⁴³ Blackstone pointed this out as early as 1768. His words have recently been quoted by Professor Holdsworth in his Inaugural Lecture, "Charles Vinet and the Abridgments of English Law" (1923) p. 11.

⁴⁴ Chancellor Kent who, on his retirement, held the office of Professor of Law in Columbia College for a number of years, declares in the preface to his Commentaries that he has endeavored to "discharge the debt which, according to Lord Bacon, every man owes to his profession."

⁴⁵ Attention may be drawn to the work and publications of the American Bar Association, the American Judicature Society (the object of which is to "promote the efficient administration of justice"), and the American Institute of Criminal Law and Criminology. The Cleveland Foundation has recently made an important investigation of criminal justice in American municipalities, and has published the results in the seven parts of the Cleveland Foundation Survey of Criminal Justice in Cleveland. These results will be found summarised in Part VII, "Criminal Justice in the American City," by Professor Roscoe Pound, Dean of the Harvard Law School. Professors Pound and Frankfurter were the Directors of the Survey.

inent part.⁴⁶ One may detect, in this country, the beginnings of a similar tendency to enlist the teaching branch of the legal profession in work of this character; but as yet the process has not gone far. This Society can, I believe, do much towards making public teachers of law a more serviceable and effective instrument of justice along the lines I have mentioned; and, as a practical measure leading to this result, I should like to suggest the setting up of a second permanent committee—a "Committee on the Amendment and Improvement of the Law." In a period of law reform, hardly less important than the time of Lord Selborne, an abundance of work is awaiting a committee of this character.

The general nature of the work to be entrusted to a "Committee on the Amendment and Improvement of the Law" would be similar to that of the "Committee on Legal Education," namely, to make enquiries and to prepare the way for the publication of reports, the holding of discussions, the shaping of policy, and the taking of practical steps. Within the vast field open to the labors of such a committee there must be, of course, the selection of subjects to be studied. A beginning could be made with one single subject of importance. Within the jurisdiction of the committee there would naturally fall at least two of the subjects to which Goudy, in his memorable address as our President in 1919, desired us to direct our studies and energies.⁴⁷ It would be most fitting for us to do something along the lines marked out by one who, in Professor de Zulueta's words, "united, as no man better, the true academic tradition, a strong sense of the duty and honor of a public teacher of law, and a deep realization of law as a force controlling human destiny."⁴⁸ In the initial stages of our work some less extensive subject might be chosen. Some aspect of the reform of

the criminal law, the law of divorce, the commercial law, or the jury system, suggests itself as a possible subject. Again, the Law of Property Act, 1922, and the consolidating legislation now in process of drafting, will leave behind an aftermath of judicial and legislative problems. Here, it seems to me, is an especially valuable field for the work of jurists. Equally interesting and useful would be the study of the law and custom of the Constitution of the Britannic Imperial Commonwealth, a vast field of enquiry as yet little touched from the point of view of juridical science.

IV.

I am reminded of a remark which Lord Bowen once made: "The worst of these learned professions is that life goes so quick."⁴⁹ Let us resolve, therefore, to set ourselves to our tasks with a greater enthusiasm and a more intensive application, let us make a fresh beginning of the special work which devolves upon us as a company of teachers and jurists. Each one of us can bring to that work his own particular endowment of knowledge and skill, each one of us can be a contributor to the more complete fulfillment of the ideals that ennoble the university and the profession. The performance of our common tasks in this spirit of statesmanship would have far-reaching effects. By pointing the way to reforms in legal education and to measures for the amendment and improvement of the law our Society would gain a fuller place of influence in the life of the community and become, in fact, an important factor in the progress of the age.⁵⁰ A future such as this, which invests even the humblest part of our labor with meaning and value, is worth our hardest striving.

The two chief objects of the Society—the furtherance of the cause of legal education and of justice—cannot be attained in the fullest measure, however, without the sympathetic and practical cooperation of the universities and of both

⁴⁶ The Institute is at present engaged in the "re-statement" of branches of the law which are anachronistic, obscure, unsettled, or confused. For interesting information on the organization, aims, and work of the Institute, see *Massachusetts Law Quarterly*, May, 1923, pp. 73-81.

⁴⁷ Address on Law Reform: Imperial Law School, Ministry of Justice, Codification (1919).

⁴⁸ The Grotius Society, vol. VII, 1922, pp. xxii-xxvi.

⁴⁹ Quoted Manson, *Builders of Our Law*, p. 413.

⁵⁰ The establishment by the Society of the proposed Journal would give it the means of communicating its views to the universities, the profession, and the public at large.

branches of the profession. This help has been rendered in the past; it will be given in the future, I believe, with a more lavish hand. We are living at the beginning of a new age of progress. Changes are already being introduced in political, social, and legal institutions by the spirit of preserving the best that has come to us from the past and of adding, at the same time, the best that comes to us from the thought of the present. This spirit is remolding the life of nations, it is also beginning to reshape the life of the universities and of the legal profession. There is a very important manifestation of the working of this new tendency. The ancient position of scepticism in the matter of legal education still colours the views of far too many of the older members of the profession, who continue to live in the past. To them, forgetting as they do the changes that have been wrought, the only legal training worth while is the practical work of chambers or office. The times to which these men still adhere are, however, fast receding into the historic past. Many members of both branches of the profession—among them some of the older leaders of the bench, the bar, and the Law Society—now favor, as a preliminary to the practical training of the student, under the guidance of a practicing barrister or solicitor, that scientific education in the history and principles of the law which can only be obtained in law schools. There is arising, moreover, a new generation of lawyers, many of

whom have themselves been trained in the schools; and these men do not, and will not, forget the value of their own study of the theoretical and historical basis of the law under competent public teachers of law.

In this new age of progress there is special need for the combined counsels of all who have a duty in the matters of legal education and legal reform. By common conferences of academic and professional authorities and of public teachers of law, the problems which concern them all in the matter of legal education could be discussed and resolved.⁵¹ By similar conferences of representatives of all the institutions and organizations which are responsible for the furtherance of justice some, at least, of the problems respecting the amendment and improvement of the law could be seen in a clearer light and their solution advanced. In work for the furtherance of the cause of legal education and of justice, work which is so essential for the preservation and progress of civilization, our Society of Public Teachers of Law should take a more active and fruitful part. Work of this character is, I believe, its true destiny.

⁵¹ Within a very limited field conferences (1) between representatives of university law schools and the Council of Legal Education, and also (2) between representatives of university law schools and the Council of the Law Society, have already taken place.

The active assistance of the Bar Council is greatly to be desired. In the United States of America the various Bar Associations take a very prominent part in solving the problems of legal education, and they work in close co-operation with the Association of American Law Schools.

Proceedings of the Section on Legal Education of the American Bar Association

Philadelphia, Pennsylvania, July 7, 1924

THE meeting of the Section on Legal Education of the American Bar Association was held in Philadelphia on the 7th of July, 1924.

Presiding: Hon. Silas H. Strawn, Chairman. John B. Sanborn, Esq., Secretary.

Chairman Strawn: I suppose we might as well come to order. I assume that several have been misled, the same as I was, about this programme. In the first place, I did not know that Philadelphia had gone fast enough to have adopted daylight saving time, and I assumed we were working on standard time. The official programme, as you see, however, indicates this meeting is to be at 2 P. M., and they have in a later programme two assignments, one for 10 this morning and one for 1 o'clock this afternoon. However, I do not suppose there will be many disappointed if they do not get here.

At this time, before we start into the regular order of business, it is customary to name a nominating committee to nominate officers for the ensuing year. I believe that is the function of the chairman, although I wish I could work it some way whereby I might be released. I think we should have rotation. I have served two years, and have really acted as camouflage for the group that has been doing the work. That is my notion about it, that we should have rotation. The nominating committee I think might be composed of Mr. A. A. Bruce, of Illinois, Mr. H. C. Jones, of Iowa, and Mr. H. R. Bailey, of Massachusetts. If somebody will suggest that being satisfactory, we will have that nominating committee for the ensuing year.

(Motion duly made, seconded, and carried.)

Chairman Strawn: Has the committee deliberated on their verdict?

Mr. Bruce: We have. The nominating committee recommends the election of the following officers for the ensuing year: Silas H. Strawn, of Illinois, President; John B. Sanborn, of Madison, Wisconsin, Secretary; Harlan F. Stone, of Washington, as Vice President; Theodore Green, of Rhode Island, as a member of the Council; and W. A. Hayes, of Milwaukee, Wisconsin, as a member of the Council. We understand those constitute practically all the places to be

filled at this time. I move the acceptance of the recommendations.

(Motion duly made, seconded and carried. Messrs. Hayes and Green take the places of Messrs. Hughes and Woodward, whose terms expire.)

Chairman Strawn: I assume that every one here has read this report that is in the programme of the annual meeting of this year, and we have just now laid before you a pamphlet which we expect to send out to the students throughout the country who are about to engage in the study of the law. It is unnecessary for me to review the substance of these two reports. I might say that this pamphlet which you find on your chairs is designed to reach the student who anticipates a great career as a lawyer, and the purpose of the language which we employed in this pamphlet is to bring it to his attention in an emphatic way the necessity of acquiring a thorough preparation for the practice of the law, and we have sought to summarize in this pamphlet the action heretofore taken by the Association and by our Section. And that brings us to the consideration of the two important subjects which are now before the Council, and concerning which we would like to have the advice of every one from whom we can get it.

The next question is: How can the President and the Council, as is indicated in the fourth section of the resolution adopted by the American Bar Association at its 1921 session, bring to the attention of the several Bar Associations, state and local, the necessity for elevating the standard of pre-legal and legal education, and to bring about a better qualification for admission to the bar?

You will observe on page 3 of the pamphlet the fourth section, which reads as follows:

"(4) The President of the Association and the Council on Legal Education and Admissions to the Bar, are directed to co-operate with the state and local bar associations to urge upon the duly constituted authorities of the several states the adoption of the above requirements for admission to the bar."

That is one of the difficult problems which we have before us. I think we have substantially discharged the other problems indicated in that resolution, except the one which is immediately above and indicated by the number 3.

"(3) The Council on Legal Education and

Admissions to the Bar is directed to publish from time to time the names of those law schools which comply with the above standards and of those which do not, and make such publication available, so far as possible, to intending law students."

We have, as you know, gone over the several law schools of the country and have endeavored to prepare this list, which is in the form of an appendix to this pamphlet. Now, the question with which we are confronted is: How shall we most widely distribute this information and get it into the hands of the greatest number of students? I assume that this pamphlet, if it is effective, should reach thousands or hundreds of thousands of students. How we are going to get it into the hands of these students is the problem, plus the other problem I have indicated, and I would like to hear from some of the gentlemen present as to any suggestions they may have to make.

Mr. Bailey (of Massachusetts): I made one suggestion along that line, how to get this information before the intending law students. The West Publishing Company for a good many years now has published, every two years, a pamphlet containing very carefully prepared and up-to-date statements regarding the requirements of admission in each state—

Chairman Strawn: There it is (indicating).

Mr. Bailey: They have shown such a good disposition, I am inclined to think they would co-operate in making known or making public any statement which we would give them. Of course, they have just finished this last pamphlet, and that is out, and they won't have another one for a year or two; but they would be helpful in publishing anything of this nature.

Secretary Sanborn: Mr. Chairman, I might say that arrangements have been made in accordance with Mr. Bailey's suggestion. I have communicated with the editor of that pamphlet, and he has agreed to incorporate matter of this kind and indicate, in the list of law schools which is published in that pamphlet, the law schools which have the approval of the American Bar Association.

Chairman Strawn: Has any one else any suggestions along that line?

Mr. Jones: There are some states, like Pennsylvania where every student is required to register at the time he begins the study of law. I think, through the Registration Office of the state, these pamphlets could be distributed to intending law students, and in that way, at least in those jurisdictions, reach practically everybody at the start.

Chairman Strawn: Do you think it would be feasible to distribute these pamphlets among the graduates of the several high schools throughout the country?

Mr. Jones: I think that is an excellent thing to do. Our University wrote me that

the high schools have generally taken a census of their graduates, as to what they intend to follow later, whether they intend to study law, medicine, or what they are going to do, and I think distributing to high schools would bring the best results of any distribution at all.

Chairman Strawn: How can you get a list of those schools?

Mr. Jones: Through the Departments of Education of each state; they would have a list of the high schools, and they would give a statement of approximately the number of graduates from each high school.

Chairman Strawn: Have you any suggestions, Mr. Forrest.

Mr. Forrest (of Iowa): Mr. Chairman, it strikes me that the most immediately interested are those who pay the most attention. I have no doubt this pamphlet, if it got into the hands of the high school seniors this year, would be read probably and forgotten, but it is the student who is thinking of studying law it strikes me would be the most directly interested, and he is the one, it strikes me, we should see it reaches. This is my thought, although it may involve duplication: Suppose every high school interested should send a list of its prospective students each year, that is, every one who writes in concerning the study of law. When that list is received by the committee, they can mail to that person one of these pamphlets, and in that way it would reach the man who was directly interested at the time being, and he would remember.

Chairman Strawn: In other words, you would suggest that in the early part of May, anticipating graduation of these students, we send to the several high schools and get a list of those who expect to study law?

Mr. Forrest: No; from the Law School itself. For instance, take the University of Iowa, Mr. Jones' School. Suppose he would send you a list of every one writing to him asking information, or saying he was interested in the study of law. Then the committee could send to that list a pamphlet of this kind

Chairman Strawn: That would be a good idea, but you would not get those students who would be apt to get into the less desirable schools, would you? In other words, anybody who is going into his school would not need this pamphlet.

Mr. Forrest: Of course, that is true to a great extent, yet that same student, perhaps, writes to several schools, and then he may pick a school that has the lowest requirements.

Mr. Jones: What would you think of supplying schools of classes A and B with copies of these pamphlets, which they may send to those who require them, indicating their intention to study law.

Mr. Forrest: I think that is an excellent idea. It doesn't make any difference wheth-

er the school sends it, or the Bar Association.

Chairman Strawn: Have you any suggestions, Mr. Porter.

Mr. Porter (of California): A boy leaves high school and has two years in college at least before him.

Chairman Strawn: The thought is we want to induce them to go two years in college. A great many students will quit after high school and go into a law office. Most of the states permit that to be done. Very few require a college course. The ones we want to reach are the ones who are about to take the step. Are there any more suggestions?

Mr. Eberle (of Missouri): I would think that a great deal can be accomplished by putting it in the hands of the schools themselves, and let them send them out. They are getting inquiries, and some of the schools have names sent by their alumni as prospective students, and they would be anxious to get those pamphlets in the hands of those students, and while it is well, of course, to get them into the hands of the man who is at college, still I believe that the majority of men taking up pre-legal work are going to select the law school before they start in pre-legal work. The chances are they will take pre-legal work at the University at which they intend to take up law. I know that we have generally felt, when we had a man in our pre-legal department, we were sure of a law student, and no doubt most of the schools find the same experience—that where a man selects your university to take his pre-legal work, he has generally made up his mind to take his law work at that same place, so I believe it is the high school graduate with whom you should get in touch. Of course, there may be others, too; but whatever scheme you follow there are some you are going to miss somewhere. You will accomplish the greatest good by getting in touch with the high school graduates. The only way to do it is to find some scheme of getting this pamphlet into their hands. I believe that, even though you follow some other scheme, still you should give the law schools themselves a supply of these pamphlets. I am saying that, although the University I represent is not on your chosen list.

Chairman Strawn: Which is that?

Mr. Eberle: St. Louis University.

Chairman Strawn: It is amazing, the number of schools that are trying to get on the list.

Mr. Eberle: We are very much in accord with it, and it may be a little out of order to mention it at this time, but I would like to have an opportunity to speak to the Council.

Chairman Strawn: We will do that. We are going to have a meeting to-morrow or the next day, and we will let you know. Have you any suggestions, Mr. Lewis?

Mr. Lewis (of Pennsylvania): Mr. Chair-

man, there is one way of reaching the high school graduate before he leaves the high school, and that would be to have a very carefully prepared letter, addressed to the heads of the high schools, urging them to call it to the special attention of the students who expect to study law. I doubt whether it would be practicable to get a list of the students in the high school, and, if you did send it to them, they may be inclined to throw it in the waste-paper basket, but I think it probably is practicable to address the high school principal. I do not know whether Mr. Sanborn has inquired as to the number, but there are about 11,000, I think.

Mr. Sanborn: I have the figures. I have a large list of high schools all over the country, which I obtained for that purpose. I haven't the exact figures, but there are a very large number of them, of course. It seems to me that Mr. Lewis' suggestion is a very proper one; that, instead of trying to get to all of the students, we should notify the high school principals or superintendents in the different states (I have a list of them, also), calling their attention to the situation, and that that would afford a means of picking out a more selected list.

Chairman Strawn: Mr. Bates, we are now considering the most feasible and effective way of getting this pamphlet which you find on the chair, which we prepared, containing a list of schools which comply with the A. B. A. rule, that is, pre-legal and legal education, before the greatest number of people. In other words, we prepared this pamphlet with the idea of its falling into the hands of students who contemplate the study of law, and we would like to have the advice of every one from whom we can get it how we can most widely and effectively distribute this pamphlet and make it work. You might have some ideas on the subject. In other words, what we want to do is to bring to the attention of every student of the high schools who expects to study law, the necessity of going further than high school and impress upon him the effectiveness of this A. B. A. rule in his future life, and the question is how can we do it. There have been several suggestions made. One is that the West Publishing Company distribute it. That is a good idea. The other one is: We are to send these pamphlets to the several law schools, yours and others, and let the law schools, whenever they have an inquiry, send them a pamphlet. I dare say the law schools would be willing to do that. Of course, one who would be apt to go to Harvard would not need it as much as one who would be apt to go to some other school of a lower standard. We want to reach that type of student, and a suggestion has been made that we get at it through the principals of the high schools, sending these pamphlets and writing a letter to the principals of the several high schools throughout the country, calling their atten-

tion to the rules, and also suggesting, if they have any students contemplating studying law, that the principal place the pamphlet in the hands of such students. Have you any suggestions, Mr. Bates?

Mr. Bates (of Michigan): I would say off hand there is absolutely an appalling ignorance on the part of prospective students. Of course, the strategic place is the high school; but the number of high schools is legion, and I do not know whether it would be practicable to get copies into the hands of the principals of all these schools or not. I think that the leading law schools in each state could help to solve the problem.

Chairman Strawn: Mr. Bruce, have you any suggestions to make?

Mr. Bruce: I think Mr. Bates' idea, that the law schools and universities themselves, in sending out their catalogues, inclose this little folder, would be a wide publicity for these pamphlets. It is impossible to send them to every prospective high school student. Send them to the principals of the schools as far as possible, and let the law schools distribute them.

Secretary Sanborn: Mr. Chairman, in Wisconsin we have a law magazine which goes to all of the lawyers. We have no subscription list; we send it without any. I am going to see that it gets in there, which at least will get it around throughout the state where I think the ordinary law student is apt to confer with some lawyer on the subject, and I think we can cover Wisconsin as far as the bar is concerned in that way. I do not know what the situation is in other states in that regard, but I think that the law magazine can help out in that respect.

Chairman Strawn: The next problem we have is: How shall we get this information to the lawyers? Under section 4, to which I referred a few minutes ago:

"(4) The President of the Association and the Council on Legal Education and Admissions to the Bar are directed to co-operate with the state and local bar associations to urge upon the duly constituted authorities of the several states the adoption of the above requirements for admission to the bar."

That is another problem we have. In other words, we want to get to the students, and also get some propaganda before the lawyers, to urge upon them the necessity of elevating the standard of the profession.

Mr. Bates: Law Journals will get to many of the lawyers.

Chairman Strawn: When you consider the situation referred to by Mr. Bailey, it is rather discouraging in some ways. I might say I appreciate the difficulties you have in the state of Massachusetts. However, we went at it rather vigorously in Illinois. We had very tenacious opposition on the part of the judges of our Supreme Court who made the rule, but we went at them pretty hard (I say "we," meaning the Illinois State Bar

Association), until finally we got them to adopt the rule, which is in substantial compliance with the A. B. A. rule. At first it was hard going. Some of these judges who sat on the bench, I guess the majority were not college men, and perhaps the most able one of the lot not even a high school man, and he could not realize the procession had been going by for fifty years, he being about eighty years old; but we finally got him lined up, and the result was we adopted that rule, which has been very effective, and has not only raised the standard of the education to the bar, but I think has cleansed the bar of its moral obliquity. In other words, I do not think there is any city in the country, except New York, that has the problem we have in Chicago, with the crooked members of the bar, and since we put this rule in effect, and especially the rule appointing a committee on character and fitness, the work of the grievance committee has been very much minimized.

Mr. Bruce: In connection with that, Mr. Chairman, I happened to look into the matter generally on admission to the bar, and I find that there isn't any question that the right of admission to the bar is a court and not a legislative prerogative. I think we ran it down historically in England, and there is no question about it, and in the United States there is no question about it, except perhaps, in New York, where they misinterpreted their own Constitution, and in a state like Indiana, where the Constitution especially covered the subject; but in the absence of a constitutional provision it is a court and not a legislative prerogative. So that, if the courts throughout the United States wish to adopt the rules on the subject, the reform can be brought about everywhere, not only in Illinois and in Kansas. As I say, of late the judges are hesitant about it; but, if they could be brought to see the wisdom of it and adopt court rules, the whole thing would be settled. Of course, there is a strong objection that the protest against judicial autocracy is so great that it might be another indication of the domination of the judiciary. Still in Illinois they slipped it through, and in Kansas they slipped it through, and I believe the average citizen wants a high standard at the bar. The only man who stands for the other thing is the lawyer in the Legislature with a cousin, uncle, or aunt he wants to slip through. Now, my proposition is this: Couldn't this Section on Legal Education function with the Judicial Section? Perhaps, if they do not adopt the general resolution, committing all their members to adopt this Bar Association rule by a court rule, as far as possible to approve of it, so that in states like Illinois and Kansas and Iowa they can put it through. In other words, keep in touch with the Judicial Section. As it is, the Judicial Section has not done much. They have not felt they could do much. When it

comes to admission to the bar, they have the whole thing in their hands, if they want to adopt it. It seems to me there should be some connection between the Legal Education and the Judicial Section.

Mr. Bailey: I would like to second the motion, if it may be called a motion, as stated by Mr. Bruce, that the Legal Education Section make known to the Judicial Section that this subject is one which they should consider and discuss and deal with. Whether the judiciary has really the power which Judge Bruce speaks of is an interesting question. Usually, when it comes before the court, they have decided, as they did in Pennsylvania and other states, that the matter is one within the power of the court, and not in the power of the Legislature. In Massachusetts the court above decided that question; they reasoned, I suppose, that the Legislature in Massachusetts as early as 1785 and repeatedly have since assumed the prerogative of regulating admission to the bar. Having done that for so many years, it is rather late now for the court to claim its real rights. But I do think the Judicial Section needs interesting and important topics to discuss, and this is one which they should discuss—very likely would be glad to discuss, not this year, but another year, and I think it could be so put before them that they will assume some stand about it. I expect there will be some difference of opinion among the judges as to the proper standard, but they should have the standards which have been approved by the Section of Legal Education of the American Bar Association, and it will be a good thing for them to know about it. Of course, in Massachusetts, where the Legislature had to be dealt with, it is still true. I think of the present Legislature, just going out of office, two-thirds of its members had less than a high school education, so that it would be rather difficult to get the Legislature to vote for a high standard of pre-legal education. I know, when you mention that, they smile. They don't know what it means. So we have to talk about general education, but certainly we have reached the low-water mark in Massachusetts, and it is time for the tide to begin to rise, and the judges in Massachusetts need encouragement.

Chairman Strawn: Of course, you understand, in Indiana, the University has adopted the A. B. A. rule of the Bar Association, and I assume something like that might be done in Massachusetts. Mr. Pound, we have been discussing the most feasible way of getting information which we are attempting to convey in this pamphlet as to requirements for admission to the bar before the greatest number of people. Have you any suggestions?

Mr. Pound (of Massachusetts): Mr. Chairman, when I read this report, I thought about it a bit, and my impression is that one way to bring this matter to the attention of

students must be resorted to. I looked over the files of correspondence for several years of prospective students, and I was struck with the large number of letters that I get every year from students in high schools, although for considerably more than a generation we only took graduates of colleges. It is back in the high schools that the students begin to think about this matter, and therefore I suspect to reach students through these vocational aids would be a very desirable thing to do, but all these other suggestions seem to me to be important also. I think we have to recognize a matter of this sort, and every legitimate agency of publicity is important.

Mr. Bruce: Mr. Chairman, I move the adoption of the following resolution:

"Resolved, that the Section on Legal Education and Admissions to the Bar, considering that the question of the standard of education to the Bar is a judicial one, suggest to the Judicial Section the advisability of putting in force by rule of court the standards approved by the American Bar Association."

(The motion was duly seconded and carried.)

Chairman Strawn: The Secretary will convey that information to the Judicial Section.

Mr. Bailey: I suggest the wording of this resolution is that the Council of Legal Education co-operate with the state and local bar associations, and we urge upon the proper authorities of the several states the adoption of the requirements mentioned. I think, if the Secretary of this meeting would communicate with the chairman of each Board of Bar Examiners of each state, and ask him for a list of the names of the presidents of each bar association in his state, that he could get a mailing list and enable him to communicate with the State Bar Associations, and some of the larger local bar associations, that would enable the Council to comply with the request made in this resolution. I think that is worth doing, if for no other reason, because it will bring the attention of the State Bar Associations, through the local bar associations, to this problem, which cannot be brought before them too often, and it may possibly result in doing some good.

Chairman Strawn: Do you have a report, Mr. Secretary?

Secretary Sanborn: Mr. Chairman, the report of the Council, which has already been printed, covers I think quite fully the activities of the Council and the Secretary. Since that report was gotten out, additional bar associations have approved the standards of the American Bar Association. The Secretary has been in correspondence with officers of these bar associations in reference to that; additional schools have been considered in connection with the list of approved schools, and the work of the Council has been

kept up to date. Of course, the Chairman has called attention to the pamphlet which was gotten up, being mentioned as being in preparation in the printed report, and I wish to say a note has been made of these various suggestions here, and I have anticipated some of them, and others will prove helpful, and the work will continue along the same lines.

Chairman Strawn: Are there any further suggestions, or is there any other business before the meeting?

Secretary Sanborn: Mr. Chairman, I wish to announce that the meeting of the Council will be held at a date of which the members will receive notice, but I make this suggestion, in case somebody should desire to present something to the Council, that they will know there will be a meeting some time, probably to-morrow, and they can communicate with me on the subject.

Mr. Lewis: When will notice of the meeting be put out?

Secretary Sanborn: I will notify each member of the Council.

Mr. Lewis: I didn't mean that; I mean, if anybody wanted to present anything to the Council.

Secretary Sanborn: I think they had better obtain that information from me.

Chairman Strawn: Before adjournment, I do not want to feel ungracious for being re-elected your president for the next year. I wish somebody else had been suggested, but I will try to do the best I can in my own feeble way.

Mr. Porter (of California): I suggest that this resolution offered by Mr. Bruce be presented to the Judicial Section, as it meets to-day or to-morrow, and I move that a committee be appointed to make a formal presentation.

Secretary Sanborn: It had been my thought I would present that to the officers of the Judicial Section, and ask them to call it to the attention of the Section. Perhaps that will be sufficient. I will be very glad to have the assistance of the committee, but I thought, perhaps, if I call it to the attention of the Chairman of that Section, and ask him to lay it before them, that would probably be enough, as I do not want to put too much pressure on the judiciary.

Chairman Strawn: Would there be any objection to have a committee appointed to attend the meeting and offer this resolution? In other words, would it give offense, if we were to participate to that extent?

Secretary Sanborn: I do not think so.

Chairman Strawn: I think a committee, consisting of Judge Bruce, Mr. Porter, of California, and Mr. Bailey; if there is no objection, we will let that be the arrangement. They will attend the meeting of the Judiciary Section this afternoon and bring it to their attention. Perhaps they would be receptive to a suggestion like that, as you

are all full of the subject and can present it. Are there any other suggestions to be made?

Mr. Bailey: The report of the Nominating Committee was accepted, but no vote was taken on the election of the nominees. I move the nominees be declared elected.

Chairman Strawn: I think Mr. Bruce put the motion.

Mr. Bruce: I think I put it.

Chairman Strawn: There is no harm in doing it again. All those in favor of accepting the nominating committee's report, and that the officers named therein be the officers for the ensuing year, will give their consent by saying "Aye."

(The motion was unanimously carried. Upon motion duly made and seconded, the meeting adjourned.)

The following is the report of the Section on Legal Education to the American Bar Association, submitted Wednesday morning, July 9, 1924, at the meeting of the American Bar Association in Philadelphia, Pa.:

To the American Bar Association:

The main work of the Section of Legal Education and Admissions to the Bar since the last meeting of the American Bar Association has been on the classification of the law schools of the country. A meeting of the Council was held at Minneapolis in connection with the meeting of the Association, at which representatives of various schools appeared and discussed problems arising out of the interpretation of the American Bar Association standards.

Following this meeting, the Secretary proceeded with the preparation of a list of approved schools in the light of the decisions of the Council. It was, however, decided to withhold for the present the publication of a list of schools which do not meet the standards, because it was found that in some cases additional data was necessary, and it was felt that it would be an injustice, should some of those schools be marked as disapproved, when further investigation might prove this to be a mistake.

The tentative list of approved schools and of schools which had announced their intention of shortly complying with the standards was published in the November number of the American Bar Association Journal. Schools now complying were placed in class A, and schools expected to comply were placed in class B. The original A list contained thirty-nine schools, and the B list nine schools, of which two expected to comply with the school year beginning in 1924, five with the year beginning 1925, and two with the school year beginning in 1926. Since the original list was published, additions have been made from time to time, either on ac-

count of more complete information, rulings by the Council on the interpretation of the standards, or because of the announcement of higher standards by the schools themselves. Of these additions two are in class A and five in class B. All of the latter expect to comply fully in 1925. There are several other schools which are now under examination, which will probably be added to the list within a short time.

The Council held another meeting in Chicago during the last week in December, at which representatives of law schools again appeared. The most important decision reached at this meeting was upon the length of the part-time course, which is considered the equivalent of the three-year full-time course. It was voted to accept a part-time course of at least 160 weeks covering four school years as this equivalent. It was also decided that, if anything less than this is offered as an equivalent, it must be specially presented to the Council for its consideration. This action is the same as that taken by the Association of American Law Schools on the same problem.

The Council considers this an opportune time to call attention to the substantial advance in law school standards, since the adoption by the Bar Association of its resolutions in 1921. We believe that since that time there are at least 27 schools which we have placed in class A or B which could not have been so classified in 1921. There are also a number of other schools which will go into these lists in the near future. In addition to this we found that some schools, which had high standards on paper, did not live up to them in practice. This was particularly true of entrance requirements. In several cases schools which announced that two years of college would be required for entrance in fact nullified this by the number of special students which were admitted. We have insisted upon a correction of all matters of this kind which have come to our attention.

We believe that the standards recommended by the Bar Association for legal education are coming to be very generally recognized as the proper goal which legal education in America must attain in the near future.

Not only have a large number of law schools either brought themselves up to these standards, or arranged to do so shortly, but the Association of American Law Schools will, beginning next year, require of its members substantially the same standards as are required for approval by the Bar Association. There are also several schools which are raising their standards without indicating whether they expect to reach the Bar Association standards.

We understand that there are at least eleven state bar associations which have either indorsed the Association standards without modification, or with only slight changes due to some local conditions. No state has adopted the standards in toto for admission to its bar, but a notable advance has been made in some states. This is particularly true in Illinois, where the Supreme Court has put into operation standards which closely approximate those which the Association has recommended. These requirements were noted in detail in the address of the Chairman before the Section last year.

Another task imposed upon the Section by the 1921 resolution was to bring these standards to the attention of intending law students. So far the energy of the Council has been devoted to the work of classification. It has in preparation, however, a pamphlet which will briefly state the position of the Bar Association on legal education and the reasons which impelled the Association to take this stand, and which will contain a list of the approved law schools of the country. Plans are being developed to place this pamphlet in the hands of those who may be intending to study law.

Andrew A. Bruce,
J. A. Chambliss,
Herbert S. Hadley,
Oscar Hallam,
Robert M. Hughes,
W. D. Lewis,
Wade Millis,
Harlan F. Stone,
Frederick C. Woodward,
Council.
Silas H. Strawn, Chairman.
John B. Sanborn, Secretary.

Registration in Law Schools—Fall of 1924

NOTE: Registration figures were obtained in October and November of each year. Figures showing the total registration in the fall of 1922 and 1923 have been added in the last two columns for purpose of comparison. The law schools are arranged alphabetically by states. Some of the schools in the list have lengthened their course, and many of the schools have been recently organized, so that this table does not show in every instance the number of years of study that is now required. The table does not include pre-legal or summer school students.

SCHOOL	1st Year	2d Year	3d Year	4th Year	Graduate	From Other Departments	Special	Unclassified	Total 1924	Total 1923	Total 1922
Alabama											
Birmingham School of Law, Birmingham, Ala.....	—	—	—	—	—	—	—	—	—	38	46
University of Alabama Law School, University, Ala....	44	34	40	—	—	6	5	—	129	170	142
Arkansas											
¹ University of Arkansas Law School, Fayetteville, Ark.....	14	—	—	—	—	20	—	—	34	—	—
Arkansas Law School, Little Rock, Ark.....	43	27	—	—	—	—	—	—	70	55	—
Arizona											
University of Arizona Department of Law, Tucson, Ariz.	32	15	15	—	—	0	4	—	75	86	70
California											
¹ Lincoln College of Law Bakersfield, Cal.....	18	—	—	—	—	—	—	—	18	—	—
University of California School of Jurisprudence, Berkeley, Cal.	90	54	37	—	—	—	3	—	284	320	324
Three-year curriculum	—	44	26	30	—	—	—	—			
² Four-year curriculum	—	—	—	—	—	—	—	—			
¹ Private School taught by W. L. Smith, Long Beach, Cal.	3	—	—	—	—	—	—	—	3	—	—
St. Vincent School of Law, Loyola College, Los Angeles, Cal.....	60	46	20	17	14	—	—	—	157	117	66
University of Southern California Law School, Los Angeles, Cal.....	179	85	113	5	—	—	—	—	382	406	435
Southwestern University Law School, Los Angeles, Cal.	135	75	50	40	—	—	—	—	300	165	—
¹ St. Mary's College School of Law, Oakland, Cal....	43	—	—	—	—	—	—	—	43	—	—
Sacramento College of Law, Sacramento, Cal.....	11	12	7	8	—	—	—	—	38	—	—
Hastings College of Law, San Francisco, Cal.....	42	31	28	—	—	—	8	—	109	116	114
Golden Gate College of Law, San Francisco, Cal.....	23	33	14	23	32	—	2	—	127	—	49
University of St. Ignatius Law School, San Francisco, Cal.	101	51	34	43	—	—	2	—	231	185	175

¹ New school—classes not yet complete.

² Four-year curriculum being discontinued.

SCHOOL	1st Year	2d Year	3d Year	4th Year	Graduate	From Other Departments	Special	Unclassified	Total 1924	Total 1923	Total 1922
California—(Cont'd).											
University of Santa Clara Institute of Law, Santa Clara, Cal.....	28	24	16	—	—	—	—	—	68	59	—
Leland Stanford, Jr., University Law School, Stanford University, Cal.....	—	—	—	—	—	—	—	—	†290	283	204
Colorado											
University of Colorado Department of Law, Boulder, Colo.	28	39	33	—	—	—	5	—	105	105	104
University of Denver School of Law, Denver, Colo....	33	40	46	—	—	—	—	—	119	166	145
Westminster Law School, Denver, Colo.	20	52	28	—	—	18	2	—	120	110	100
Connecticut											
Hartford College of Law, Hartford, Conn.	—	—	—	—	—	—	—	—	—	55	56
Yale Law School, New Haven, Conn.....	132	82	111	70	13	—	—	—	408	333	274
District of Columbia											
Catholic University of America Law School, Washington, D. C.....	18	1	14	17	2	—	—	—	52	30	71
Georgetown University Law School, Washington, D. C.	—	—	—	—	—	—	—	—	}	1051	1205
Day school	—	—	—	—	—	—	—	—			
Late afternoon session	—	—	—	—	—	—	—	—	—	—	—
George Washington University Law School, Washington, D. C.	—	—	—	—	—	—	—	—	—	927	925
Howard University Law School, Washington, D. C.	15	30	30	—	3	—	1	20	99	124	125
National University Law School, Washington, D. C.	300	200	175	250	—	—	—	—	725	684	650
Y. M. C. A. Law School, Washington, D. C.....	45	28	19	1	8	—	—	—	100	57	60
Washington College of Law, Washington, D. C.	47	46	45	—	8	10	7	—	163	174	171
John M. Langston School of Law, Washington, D. C.	—	—	—	—	—	—	—	—	—	45	40
Knights of Columbus Evening School, Washington, D. C.	—	—	—	—	—	—	—	—	—	150	—
Florida											
John B. Stetson University Law School, DeLand, Fla.	33	24	25	—	—	—	—	—	82	77	—
University of Florida Law School, Gainesville, Fla.	78	44	46	—	—	33	8	—	209	182	190
Georgia											
University of Georgia Law School, Athens, Ga.....	39	42	28	—	—	8	3	—	120	128	131
Atlanta Law School, Atlanta, Ga.	—	—	—	—	—	—	—	—	—	127	125
Lamar School of Law, Emory University, Emory University, Ga.	25	23	14	—	—	—	1	—	63	61	64
People's National University Law School, Atlanta, Ga.	8	10	6	—	5	—	0	—	35	31	—
Mercer University Law School, Macon, Ga.	45	15	26	—	—	—	10	—	96	75	64
Idaho											
University of Idaho Law School, Moscow, Idaho ..	24	7	16	1	—	22	1	—	71	76	65

* Also includes postgraduate students.

† Totals not itemized.

SCHOOL	1st Year	2d Year	3d Year	4th Year	Graduate	From Other Departments	Special	Unclassified	Total 1924	Total 1923	Total 1922
Illinois											
College of Law, Illinois Wesleyan University, Bloomington, Ill.....	30	35	34	—	—	—	2	—	101	125	106
Chicago, Kent College of Law, Chicago, Ill.....	603	236	182	—	17	—	48	—	1086	—	—
Chicago Law School, Chicago, Ill.	—	—	—	—	—	—	—	—	—	231	195
De Paul University Law School, Chicago, Ill.....	160	40	120	101	6	—	—	—	427	383	357
John Marshall Law School Chicago, Ill.	4199	69	45	—	—	—	—	—	313	246	156
Loyola University Law School, Chicago, Ill.....	55	57	61	38	—	—	—	—	211	180	132
Mayo Federated Colleges, College of Law, Chicago, Ill.	—	—	—	—	—	—	—	—	—	—	92
Northwestern University Law School, Chicago, Ill.....	78	52	30	39	2	—	17	—	218	188	197
University of Chicago Law School, Chicago, Ill.....	205	125	116	—	4	—	4	—	454	463	470
Decatur College of Law, Decatur, Ill.	—	—	—	—	—	—	—	—	—	11	—
University of Illinois Law School, Urbana, Ill.....	130	59	40	5	—	14	6	—	254	200	143
Indiana											
Indiana University School of Law, Bloomington, Ind.	62	26	27	2	—	90	13	—	220	137	226
Law Department, Tri-State College, Angola, Ind.....	—	—	—	—	—	—	—	—	—	23	—
Law Department, Central Normal College, Danville, Ind.	3	4	3	—	—	—	—	—	10	—	—
Benjamin Harrison Law School, Indianapolis, Ind.	70	47	—	—	—	—	—	—	117	—	80
Indiana Law School, Indianapolis, Ind.	40	25	31	—	—	—	—	—	96	97	—
University of Notre Dame Law School, Notre Dame, Ind.	119	75	77	—	—	—	—	—	271	254	—
Iowa											
Drake University Law School, Des Moines, Iowa	35	35	21	—	—	17	—	—	108	103	116
Iowa State University Law School, Iowa City, Iowa	92	65	45	—	—	—	—	—	202	192	223
Kansas											
University of Kansas Law School, Lawrence, Kan...	41	33	24	—	—	34	—	—	132	124	151
Washburn College School of Law, Topeka, Kan.....	49	15	15	—	—	4	—	—	83	73	82
Kentucky											
University of Kentucky College of Law, Lexington, Ky.....	43	20	26	—	—	18	2	—	109	74	100
Central Law School, Simmons University, Louisville, Ky.....	7	4	4	—	1	—	—	—	16	12	—
Jefferson School of Law, Louisville, Ky.....	—	—	—	—	—	—	—	—	—	111	103
University of Louisville Law Department, Louisville, Ky.	9	17	12	—	—	—	13	—	51	53	40
Louisiana											
Loyola University Law School, New Orleans, La.	—	—	—	—	—	—	—	—	—	249	218
Tulane University Law School, New Orleans, La.	51	29	14	—	—	—	—	—	96	80	67

SCHOOL	1st Year	2d Year	3d Year	4th Year	Graduate	From Other Departments	Special	Unclassified	Total 1924	Total 1923	Total 1922
Maryland											
University of Maryland Law School, Baltimore, Md.	210	183	127	—	—	—	27	—	547	552	557
Massachusetts											
Boston University Law School, Boston, Mass.	289	178	241	—	22	—	24	—	754	737	786
Northeastern University School of Law, Boston, Mass.	427	295	186	116	—	—	—	—	1024	856	660
Springfield Division, Springfield, Mass.	54	29	12	4	—	—	3	—	102	84	69
Worcester Division, Worcester, Mass.	68	20	15	16	—	—	1	—	120	91	99
Providence Division, Providence, R. I.	40	15	16	10	—	—	—	—	81	64	57
Portia Law School, Boston, Mass.	127	77	73	48	—	—	26	—	351	331	306
Suffolk Law School, Boston, Mass.	875	460	335	270	—	—	—	—	1940	1685	1480
Harvard University Law School, Cambridge, Mass.	535	348	246	—	17	—	24	32	1202	1100	1019
Michigan											
University of Michigan Law School, Ann Arbor, Mich.	254	171	168	4	—	6	7	—	610	642	419
Detroit College of Law, Detroit, Mich.	—	—	—	—	—	—	—	—	—	609	519
University of Detroit Law School, Detroit, Mich.	98	75	65	—	12	—	17	—	267	283	255
Minnesota											
Minnesota College of Law, Minneapolis, Minn.	140	134	80	—	—	—	—	—	354	430	347
Northwestern College of Law, Minneapolis, Minn.	63	40	42	35	—	—	—	—	180	197	205
University of Minnesota Law School, Minneapolis, Minn.	92	65	67	—	—	3	52	—	279	277	272
Y. M. C. A. Law School, Minneapolis, Minn.	—	—	—	—	—	—	—	—	—	40	—
St. Paul College of Law, St. Paul, Minn.	106	87	74	73	—	—	—	—	340	366	278
St. Thomas College of Law, St. Paul, Minn.	—	—	—	—	—	—	—	—	—	30	—
Mississippi											
University of Mississippi Law School, University, Miss.	33	32	44	—	—	—	—	—	109	110	74
Missouri											
University of Missouri Law School, Columbia, Mo.	45	30	30	—	—	—	—	—	105	109	98
Kansas City School of Law, Kansas City, Mo.	255	200	151	109	—	—	—	—	715	725	525
Y. M. C. A. Law School, St. Joseph, Mo.	33	30	8	9	—	—	—	—	80	64	42
Benton College of Law, St. Louis, Mo.	31	38	38	32	—	—	7	—	146	161	161
City College of Law & Finance, St. Louis, Mo.	88	54	38	—	—	—	—	—	180	—	100
St. Louis University Institute of Law, St. Louis, Mo.	29	65	61	55	—	—	2	—	212	302	416
Washington University Law School, St. Louis, Mo.	64	39	68	—	—	1	13	—	185	191	212
Montana											
University of Montana Law School, Missoula, Mont.	16	16	15	—	—	3	—	—	50	58	74

SCHOOL	1st Year	2d Year	3d Year	4th Year	Graduate	From Other Departments	Special	Unclassified	Total 1924	Total 1923	Total 1922
Nebraska											
University of Nebraska Law School, Lincoln, Neb.	81	69	34	—	—	5	2	—	101	198	201
Creighton University Law School, Omaha, Neb.	52	45	33	—	—	—	—	—	130	123	186
Day	—	34	13	3	—	—	—	—	50	101	—
Night	—	—	—	—	—	—	—	—	—	—	—
University of Omaha Law Department, Omaha, Neb.	37	28	21	11	—	—	—	—	97	104	93
New Jersey											
New Jersey Law School, Newark, N. J.....	842	368	203	—	2	—	—	—	1415	892	565
New York											
Albany Law School, Albany, N. Y.	124	109	89	—	—	—	—	—	322	332	302
Brooklyn Law School, Brooklyn, N. Y.....	1030	664	457	—	61	—	1	—	2213	1752	1128
Buffalo Law School, Buffalo, N. Y.....	188	91	81	—	—	—	5	—	365	293	223
Cornell Law School, Ithaca, N. Y.	96	53	27	—	—	11	3	—	190	152	105
Columbia University Law School, New York City...	252	171	193	—	7	—	30	—	655	645	651
Fordham University School of Law, New York City..	536	511	393	—	—	—	40	—	1480	1433	1242
New York Law School, New York City	391	359	356	—	—	—	—	—	1106	952	745
New York University Law School, New York City..	603	620	468	—	58	—	—	—	1749	1671	1424
Syracuse University Law School, Syracuse, N. Y...	57	36	44	—	—	—	4	—	141	158	212
North Carolina											
University of North Carolina Law School, Chapel Hill, N. C.	42	35	16	—	—	—	10	—	103	124	111
Trinity College Law School, Durham, N. C.....	12	9	—	—	—	—	3	—	24	—	20
Judge Pell's Law Class, Raleigh, N. C.	59	37	19	—	—	—	—	—	115	78	—
Wake Forest College Department of Law, Wake Forest, N. C.....	29	20	23	13	2	20	29	—	136	95	160
Wilmington Law School, Inc., Wilmington, N. C...	10	5	—	—	—	—	—	—	15	10	12
North Dakota											
University of North Dakota Law School, Grand Forks, N. D.....	30	18	10	—	—	5	5	—	68	50	38
Ohio											
Ohio Northern University College of Law, Ada, Ohio	40	60	76	—	—	39	5	—	220	160	150
Akron Law School, Akron, Ohio	42	20	30	16	—	—	—	—	108	101	87
College of Law, University of Cincinnati, Cincinnati, Ohio	25	21	7	—	—	—	—	3	56	52	61
Y. M. C. A. Law School, Cincinnati, Ohio	80	51	41	37	—	—	4	—	213	186	167
St. Xavier College Law School, Cincinnati, Ohio	36	20	18	—	—	—	6	—	80	84	115
Cleveland Law School, Cleveland, Ohio	175	125	150	150	—	—	—	—	600	445	513
John Marshall Law School, Cleveland, Ohio	150	110	100	75	10	—	7	—	452	377	406

* Night classes have been discontinued.

* Course covers twelve months in each year.

SCHOOL	1st Year	2d Year	3d Year	4th Year	Graduate	From Other Departments	Special	Unclassified	Total 1924	Total 1923	Total 1922
Ohio—(Cont'd).											
Lake Erie School of Law, Cleveland, Ohio	55	32	20	12	—	—	10	—	129	70	—
Western Reserve University Law School, Cleveland, Ohio	95	86	56	—	—	—	3	—	240	215	196
Ohio State University College of Law, Columbus, Ohio	137	96	100	—	—	—	11	—	344	294	232
Y. M. C. A. Law School, Columbus, Ohio	29	26	12	12	2	—	4	—	85	85	—
¹ University of Dayton College of Law, Dayton, Ohio	21	9	24	—	—	—	3	—	57	—	—
⁷ St. John's University Law School, Toledo, Ohio	—	—	—	18	—	—	—	—	18	24	38
Youngstown Association School of Law, Youngstown, Ohio	50	30	19	12	—	—	—	—	111	100	122
Oklahoma											
University of Oklahoma College of Law, Norman, Okl.	—	—	—	—	—	—	—	—	—	203	255
¹ Tulsa Law School, Tulsa, Okl.	18	17	—	—	—	—	3	—	38	20	—
Oregon											
University of Oregon Law School, Eugene, Ore....	29	28	7	—	—	—	4	—	68	47	—
Northwestern College of Law, Portland, Ore....	—	—	—	—	—	—	—	—	—	107	120
Willamette University College of Law, Salem, Ore.	22	10	11	—	—	—	1	—	44	40	52
Pennsylvania											
Dickinson School of Law, Carlisle, Pa.	134	81	66	—	—	—	28	—	309	263	251
Temple University Law School, Philadelphia, Pa.	146	82	69	48	—	—	4	—	349	307	260
University of Pennsylvania Law School, Philadelphia, Pa.	154	85	68	—	1	—	—	7	315	281	238
Duquesne University Law School, Pittsburgh, Pa...	79	45	50	—	—	—	—	—	174	144	116
Pittsburgh Law School, Pittsburgh, Pa.....	83	54	63	—	—	—	3	—	203	196	201
Rhode Island											
Northeastern University, Providence Division, see under <i>Massachusetts</i> .											
South Carolina											
University of South Carolina Law School, Columbia, S. C.....	53	33	53	—	—	4	4	—	147	142	139
Furman University College of Law, Greenville, S. C.	—	—	—	—	—	—	—	—	—	37	—
South Dakota											
University of South Dakota Law School, Vermillion, S. D.	40	28	28	—	—	—	5	—	101	99	83
Tennessee											
Chattanooga Law School, Chattanooga, Tenn.....	30	23	28	—	—	—	2	—	83	86	81
University of Tennessee Law School, Knoxville, Tenn.	34	19	9	—	—	—	5	—	67	60	55
Cumberland University Law School, Lebanon, Tenn...	58	186	—	—	—	—	—	—	244	200	175

¹ New school—classes not yet complete.¹ No new students have been admitted to St. John's University Law School for the last three years.

SCHOOL	1st Year	2d Year	3d Year	4th Year	Graduate	From Other Departments	Special	Unclassified	Total 1924	Total 1923	Total 1922
Tennessee—(Cont'd).											
University of Memphis Law School, Memphis, Tenn...	50	40	40	—	—	—	—	—	130	125	90
Vanderbilt University Law School, Nashville, Tenn.	66	51	64	—	—	—	13	—	194	205	201
Texas											
University of Texas Law School, Austin, Tex....	—	—	—	—	—	—	—	—	—	360	208
Jefferson School of Law, Dallas, Tex.....	37	15	5	—	—	—	6	—	63	50	—
South Texas School of Law, Houston, Tex.....	34	25	—	—	—	—	—	—	59	30	—
Baylor University Law School, Waco, Tex.....	—	—	—	—	—	—	—	—	—	87	—
Virginia											
University of Virginia Law School, Charlottesville, Va.	83	78	55	—	—	—	10	—	226	234	233
Washington and Lee University Law School, Lexington, Va.....	40	22	23	—	—	—	—	—	85	107	134
Norfolk Night Law School, Norfolk, Va.....	12	20	4	1	1	—	—	—	38	—	40
Law Department, Virginia Union University, Richmond, Va.	9	3	7	—	—	—	—	—	10	15	—
T. C. Williams School of Law, Richmond, Va.	29	14	19	—	—	—	—	—	153	132	140
Morning division.....	36	26	27	—	—	—	2	—			
Evening division.....											
Washington											
University of Washington Law School, Seattle, Wash.	43	37	31	—	—	—	—	—	111	123	149
Gonzaga University Law School, Spokane, Wash...	25	21	8	3	—	—	1	—	58	54	52
West Virginia											
University of West Virginia Law School, Morgantown, W. Va.....	42	40	31	—	—	—	7	—	120	114	90
Wisconsin											
University of Wisconsin Law School, Madison, Wis.	116	60	47	—	—	—	—	—	232	230	269
Marquette University Law School, Milwaukee, Wis.	98	72	70	—	—	—	—	—	240 } †86	208	367
Day course.....	—	—	—	—	—	—	—	—			
Night course.....											
Wyoming											
University of Wyoming Law School, Laramie, Wyo...	13	6	5	—	—	—	1	—	25	18	26
Canada											
Osgoode Hall Law School, Toronto, Ontario, Canada	26	23	12	—	—	—	1	—	62	391	343
	14854	10184	8223	1682	310	400	661	64	36378	36602	32454
									†376		
									36754		

† New school—classes not yet complete.

‡ Night course discontinued in February, 1924.

† Totals not itemised.

Notes and Personals

Edward Franklin Albertsworth has been appointed a resident Professor of Law at Northwestern University Law School from September 1, 1924. Professor Albertsworth holds the degrees of A.B., A.M., Ph.D., LL.B., and S.J.D. He has studied at George Washington, Chicago, Johns Hopkins, Columbia, and Harvard University; in the last of these he received his S.J.D. He was Dean of the Law School of the University of Wyoming 1921-22, and was a member of the Law Faculty of Western Reserve University 1922-24. His subjects in Northwestern University will be Contracts, Property II, Industrial Accident Liability, Trade Regulation, and Labor Legislation. Professor Albertsworth has been a frequent contributor to the Law Reviews on subjects connected with Procedure, Contract, and Jurisprudence.

Axel Berg Gravem, of the Chicago Bar, has been appointed Lecturer on Anglo-American Legal History for the year 1924-25. Mr. Gravem, who is a graduate of the University of California, holds the degrees of B.A., B.C.L., and M.A. from Oxford University, where he went as a Rhodes scholar after serving as Lieutenant in the U. S. Field Artillery 1917-18. At Oxford, Mr. Gravem specialized in English Legal History.



The work of instruction of the University of Chicago Law School during the summer of 1924-25 was assisted by Professor Oliver S. Rundell, of the University of Wisconsin Law School, Professor Percy Bordwell, of the State University of Iowa College of Law, Dean Joseph W. Madden, of the West Virginia College of Law, and Professors James L. Parks and Kenneth C. Sears, of the University of Missouri School of Law. Two hundred students were in attendance during the summer.

Professor Harry A. Bigelow is on leave of absence for the year 1924-25, and is spending it in a hunting and exploring expedition in Eastern Africa. His Property courses are being given by Professor Oliver S. Rundell, of the University of Wisconsin Law School, who is on leave of absence from there for the first semester of the year.

Phillip Mechem, formerly Assistant Professor of Law at the University of Idaho, has been appointed Teaching Fellow in Law for 1924-25 and is giving the course on Partnership.

Claude W. Schutter, J. D. (University of Chicago, '23), has been appointed lecturer on Insurance for the year 1924-25.



New appointments to the law faculty of Columbia University are as follows:

Karl Nickerson Llewellyn, Associate Professor of Law at Yale University, is the visiting professor at Columbia for the year 1924-25 and is giving the course in Sales. Mr. Llewellyn was retained in 1922 by the Committee on Commercial Law of the Commissioners on Uniform State Laws, as its draftsman, to prepare the proposed Uniform Chattel Mortgage Act.

Roswell F. Magill, formerly a special attorney in the United States Treasury Department in connection with the new Revenue Act and the income tax regulations, has been appointed Assistant Professor of Law, and is giving the courses in Pleading and Practice I and Pleading II.

William T. Taylor, a graduate of the Columbia Law School in the class of 1923, has been appointed Assistant to the Dean and succeeds Professor Y. B. Smith as Secretary of the Faculty of Law.

A good deal of interest has been aroused by the courses offered for graduate students who are candidates for the LL.M. and J.D. degree. These courses are as follows: Legislative Developments of the Law; Problems in Constitutionality; Logical and Ethical Problems of the Law: An Introduction to Legal Philosophy; seminar in the law of business organization; Problems of Contract Law and Modern Civil Law.



The following notice of the Yale Law School appears in the November, 1924, number of the Yale Law Journal:

"On June 16, 1924, the one hundredth anniversary of the founding of the Yale Law School was celebrated by appropriate exercises, which were attended by several hundred graduates. Dean Swan presided and addresses were delivered by Professor Emeritus Theodore S. Woolsey, Hon. Harlan F. Stone, Attorney General of the United States, and Hon. George W. Wickersham, Attorney General during President Taft's administration. These addresses will shortly be published in a small volume.

"The school begins its second century with an encouraging increase in the enrollment, particularly in the entering class. A comparison

of this year's registration with that of last year follows:

	1923-24	1924-25
Graduate class	12	13
Third year class.....	102	111
Second year class.....	101	82
First year class.....	75	132
Students from other departments of the University	40	70
	<hr/> 330	<hr/> 408

"It has been found necessary to divide into two sections the first year class, which, including Yale College seniors, numbers 197. The size of this class supplies a potent argument for the imperative need of a new building in the near future. No room in the present building will seat more than 150.

"Degrees from ninety-seven colleges and universities are represented by the student body. Those institutions having four or more graduates registered in the school are: Boston College, 4; Brown University, 4; University of California, 5; Catholic University, 6; Clark University, 6; Cornell University, 6; Dartmouth College, 8; Georgetown University, 10; Harvard College, 4; Holy Cross College, 17; University of Michigan, 5; University of Pennsylvania, 6; Princeton University, 7; Syracuse University, 6; Trinity College, 8; Ursinus College, 4; Vanderbilt University, 8; Wesleyan University, 9; Yale College, 101.

"The 1924 summer session was much the most successful in point of numbers of any yet held. It was attended by 124 students during the first term and 115 the second. The experiment of offering graduate law courses during the summer attracted a number of law teachers and will be repeated in 1925. The summer instruction was given by six members of the Yale Faculty, and in addition Professor E. W. Hinton of the University of Chicago and Assistant Professor M. S. Breckinridge of Western Reserve University.

"For the coming year the faculty remains the same as last year with three additions. Assistant Professor Wesley A. Sturges has been called from the University of Minnesota. Mr. Sturges is a graduate of the University of Vermont. He obtained the LL. B. degree from Columbia University in 1919, and the J. D. degree cum laude from Yale in 1923. He taught at Yale during the summers of 1922 and 1923, and the many friends he then made will welcome his return. Mr. William B. Gumbart, LL. B. Yale 1915, of the New Haven bar, has been appointed a lecturer on Connecticut Law and Practice—a course which was formerly given by Judge Beach, but omitted from the curriculum last year because of his retirement. Mr. John Caskey, who was graduated from the school with honors in June, 1924, has returned on a teaching fellowship, and will give the course on Persons and part of the course on Contracts during the second term, while Professor Corbin enjoys a sabbatical leave of absence."

Professor Borchard will also be absent on sabbatical leave during the second term. Professor E. M. Morgan, who had expected to be absent during the first term, studying Procedure in the British Courts, has returned to the school, having been obliged to postpone the carrying out of his plan of study until a later year. Another volume of Professor Cook's series of casebooks on Equity has just been published. This volume is volume III of the set and covers reformation, rescission, and restitution, at law (quasi contracts) and in equity.

The new Lawyers' Club buildings at the University of Michigan Law School which include a residence for 160 students, a dining hall to accommodate 300 students, a few guest rooms, and a large living room or lounge, were turned over by the architects and contractors to the University just before the opening of the present academic year, and are now in full use. The buildings are of the late Gothic design, the exterior building material being Massachusetts granite, with the trimmings in Indiana and Ohio Bedford. The general color of the building is a light and somewhat variegated cream. It is an exceedingly beautiful group of buildings, extending for over 500 feet on South University avenue and 250 or 300 feet on State street. Already the Lawyers' Club is the center of the social life of the Law School, and is lending itself effectively to one of the chief purposes which its donor had in mind, namely, the increase of the feeling of esprit de corps among law students and of a heightened interest in their intellectual and professional work.

It is now permissible to say that the donor is Mr. William W. Cook, New York City, a graduate of the College of Arts with the class of 1880 and of the Law School of this University with the class of 1882. Mr. Cook, as is well known, has represented some of the greatest corporations of the country, and is the author of "Cook on the Law of Corporations."

There have been no material changes in the curriculum of the Law School for the present year. Professor Horace L. Wilgus is absent on leave, spending a year in Europe. His course in Corporations is in charge of Professor Burke Shartel. Professor Edson R. Sunderland is also absent on leave, but only for the first semester. He is spending that period in England, making a first-hand study of English procedure. His courses in Pleading are being taken by Professor E. Blythe Stason.

Professor E. Blythe Stason has come to the faculty this year for the first time. Professor Stason is a graduate of the University of Wisconsin with the degree of A. B. in 1913, and received the degree of B. S. from the Massachusetts Institute of Technology in 1916. He was graduated from the University of Michigan Law School in 1922, with the degree of J. D. After graduation from the Massachusetts Institute of Technology, Professor Stason was a member of the faculty of the College of Engineering of the University of Michigan for two or three years, and during that period began the study of law as an aid to his approach to the combined legal-engineering aspects of public utilities. The interest thus aroused increased as Mr. Stason went on with his studies, and he finally determined to take the complete law course. Professor Stason was a brilliant stu-

dent, making an almost unequaled record in the Law School. While a student in this school he was a member of the editorial staff of the Michigan Law Review and in his senior year was elected to the Order of the Coif.



Two hundred and eighty-four students enrolled in August in the School of Jurisprudence of the University of California for the academic year 1924-25. Of these 152 are graduate students, 129 undergraduate, and 3 special.

Professor Austin T. Wright, A. B., LL. B., teacher in the Law School for the past eight years, resigned at the close of the last semester to join the faculty of the Law School of the University of Pennsylvania.

The courses in Partnership, Torts, and Corporations, formerly given by Professor Wright, and the course in Equity, are being taught by Professor Henry W. Ballantine, A. B., LL. B. Professor Ballantine is a graduate of Harvard and of Harvard Law School, and from 1905 to 1909 was a lecturer in law at the University of California and at Hastings College of the Law, San Francisco. He has been Dean of the Law School of the University of Montana, Professor of Law at the law school of the University of Wisconsin, Dean of the College of Law of the University of Illinois, and comes to California after four years' service as Professor of Law at the University of Minnesota.

The courses in Constitutional Law and Public Service are being given by Professor Dudley O. McGovney, M. A., LL. B., visiting professor for the current semester from the University of Iowa.

Professor Matthew C. Lynch is absent on leave for the year, and the courses in Contracts and Sales previously taught by him are being given by Professor George P. Costigan, Jr.

A new course in Legal Ethics will be offered by Professor A. M. Kidd in the second semester.

In the summer sessions for 1924, courses were given in Commercial Law by Dr. Dobrzensky and Professor Radin, of this Law School; in Criminology, by various experts, including Dr. Jau Don Ball, criminologist, Professor Robert H. Gault, of Northwestern University, Dr. Albert Schneider, Dean of the School of Pharmacy, North Pacific College, Portland, Ore., Chief of Police O'Brien and other members of the San Francisco Police Department, and special lecturers; Professor Arthur M. Cathcart, of Stanford University, gave a course in the Law of Public Utilities; and Karl Llewellyn, LL. B., J. D., Associate Professor of Law, Yale University, gave the course in Contracts.

Commencing with the current semester, the four-year curriculum, which combined

legal and nonlegal subjects, established in 1919, has been discontinued. All students must now possess senior standing to enter the school, as was the case prior to 1919.



By action of the Board of Trustees of Stanford University, the Law School has been placed upon a graduate basis. The resolution provides that "admission to the professional curriculum in law is to be granted only to students who have received the degree of Bachelor of Arts, or an equivalent degree, from this University or from some other institution of recognized collegiate standing." This requirement will therefore apply to students doing their pre-legal work in Stanford University, as well as to those transferring from other institutions. The requirement takes effect on November 1, 1924.

During the past summer a very successful session was conducted. The program and instructors were as follows:

Contracts, Professor Merton L. Ferson, Dean of the University of North Carolina Law School.

Personal Property, Professor Everett Fraser, Dean of the University of Minnesota Law School.

Persons and Domestic Relations, Professor Chester G. Vernier, of the Stanford faculty. Mining Law, Professor Joseph W. Bingham, of the Stanford faculty.

Admiralty, Professor Edwin D. Dickinson, University of Michigan Law School.

Bankruptcy, Professor George E. Osborne, of the Stanford faculty.

Title to Land, Professor Everett Fraser.

Partnership, Professor Rollin M. Perkins, University of Iowa Law School.

Mortgages, Professor George E. Osborne.

Professor Arthur M. Cathcart taught during the summer at the University of California, giving a course in Public Utilities.

The fall quarter opened with an increased enrollment, in spite of certain restrictions which have been placed upon admission during the past year. The eight regular members of the faculty are all in residence. Professor Clarke B. Whittier, who was absent on sabbatical leave last year, and who spent his time in European travel, has again taken up his work.

An additional member of the faculty has been provided in the person of Mr. Stanley Morrison, who has been appointed Lecturer in Law. Mr. Morrison received his A. B. degree from Yale University in 1915 and his LL. B. from Harvard University in 1919. The year after his graduation from Harvard he was secretary to Associate Justice Oliver Wendell Holmes of the United States Supreme Court. More recently he has been engaged in practice with the firm of McCutchen, Olney, Mannon & Greene in San Francisco. Mr. Morrison will give courses in Municipal Corporations, Taxation, and Admiralty.

September 18 marked the beginning of the sixtieth session of the College of Law of the University of Iowa. The attendance shows a moderate increase over that of last year. Probably for the first time in the history of the school no students are enrolled who have less than the minimum academic requirement of two full years of college work. Fifty-four members of the first-year class have a college degree or are candidates for a degree in June, 1925.

Two members of the faculty, Odie K. Patton and Wayne G. Cook, whose elections were announced last year, are now in residence. Mr. Patton gives the courses in Conflict of Laws, Public Utilities, and Bankruptcy, and is faculty editor in charge of the Iowa Law Bulletin. During the past year Mr. Patton was associate editor of the new Iowa Code. Mr. Cook has withdrawn from practice and now devotes his entire time to law teaching, giving the courses in Iowa Practice and Procedure, Brief-Making, Actions and Pleadings in the first semester, and Administration of Decedents' Estates, Code Pleading, and the Practice Court in the second semester. He is now compiling and editing new casebooks on Iowa Practice and on Code Pleading, similar in scope and purpose to Mr. Perkins' casebook on Iowa Criminal Procedure. Dudley O. McGovney is teaching law at the University of California until the Christmas holidays, when he will return to his work at Iowa. Mr. McGovney's course in Contracts will be given by Edward F. Rate, L. '21, of the Iowa City bar, until his return. Millard F. Breckenridge, who was a member of the faculty from November, 1922, to June, 1924, is now Professor of Law at Western Reserve University, Cleveland, Ohio.

The two Dillon prizes of \$50 each for the highest average in the work of the first year and second year, respectively, during 1923-24, were awarded to Harold E. Verrall, of Britt (first-year prize) and Edward D. Kelly (second-year prize), of Emmetsburg. The American Law Book Company prize of a set of Corpus Juris-Cyc. was awarded to Lois Garrett Griffen, L. '24, of Sioux City.

Important additions have been made to the library during the past year, bringing the total number of volumes to more than 36,000. These additions make practically complete the library's sets of Australian, South African, Canadian, Irish, Scotch, and English reports. There has also been a considerable increase in the library's periodical and statutory material. The second deck of the stack has been completed, giving a total stack capacity of approximately 50,000 volumes.

The courtroom has been remodeled, and in it have been hung the pictures of present and former judges of the Supreme Court and of Iowa graduates who are Governors, United States Senators, or Supreme Court Judges.

The following changes have been made in the Faculty of the University of Missouri Law School:

Professor Merton L. Ferson resigned last June to become Dean of the University of North Carolina Law School. He was succeeded by Mr. Guy V. Head, who had been connected with the firm of Bowersock & Fizzell, of Kansas City, Missouri.

Professor James W. Simonton, who was absent on leave last year taking graduate work at the Harvard Law School, has resumed his work at this Law School.

Plans are now under way for a new Law School Building, and work on the same will be commenced in the very near future.



The College of Law of the University of Illinois suffered a severe loss through the death of Professor John Norton Pomeroy. He was a graduate of Yale University and of Hastings College of Law. At Yale he was elected to Phi Beta Kappa and Skull and Bones. Following in the footsteps of his father, he edited the second, third, and fourth editions of Pomeroy's Equity Jurisdiction, the third edition of Pomeroy's Code Remedies, and the second edition of Pomeroy's Specific Performance. At his death he was at work on another edition of Pomeroy's Specific Performance. He was the author of a student's edition of Equity Jurisdiction, of the article in Cyc. on Specific Performance, and of several articles in legal publications. He came to the University of Illinois in 1910, and continued there until his death on May 31, 1924. Professor Pomeroy was an exceptionally strong teacher, a cultured gentleman, and a faithful colleague.

Three men have this year joined the staff at Illinois, making nine full-time men in the teaching group in the Law School. The new men are Professor William E. Britton, Professor Elliott Cheatham, and Assistant Professor George B. Weisiger. Professor Britton comes to Illinois from Indiana University, where he had held a similar position. He holds the following degrees: A. B., McKendree College; A. M. and J. D., University of Illinois. Previous to going to Indiana he had been an assistant Professor of Law at Illinois. He is the author of Britton's Cases on Bills and Notes, Britton's Supplement to Gilmore's Cases on Partnership, and the co-author of Britton & Bauer's Cases on Business Law. Professor Cheatham is a graduate of the University of Georgia (1907) and of the Harvard Law School (1911). He was admitted to Phi Beta Kappa at Georgia, was an honor student at Harvard, and an editor of the Harvard Law Review. He has taught part time at Emory University School of Law. Assistant Professor Weisiger holds the B. S. degree and the LL. B. degree from

the University of Illinois, and the J. D. degree from Yale. He is doing a limited amount of teaching and in addition is the law librarian.

The College of Law at Illinois registered an increase in attendance last year of about forty-five per cent. This year there is again an increase of nearly thirty per cent. This year marks a further innovation, in that this College is joining with Northwestern University and the University of Chicago in the publication of a single legal magazine. The law curriculum has undergone considerable expansion. Particularly there are mentioned certain courses in Legal Problems, which will be under the direction of Professor Cheatham. The reading courses, inaugurated a year ago under the direction of Professor Green, have been operating with marked success.



Professor James J. Robinson is the only new full-time man on the faculty of the Indiana University School of Law this year. Professor Robinson has an A. B. from Indiana University and an LL. B. from Harvard Law School. He saw active service in the Navy during the war, and since getting back to civil life has had five years of very successful practice at the Indiana Bar. His courses in the Law School are Criminal Law, Evidence, Partnership, and Private Corporations.

Professor William E. Britton, for some years a member of the faculty of the Indiana University School of Law, has rejoined the faculty of the College of Law of the University of Illinois.

Some interesting co-operation is developing between the School of Law and other schools and departments of the University. Thus, the Law School is conducting courses in Indiana School of Law for the School of Education and the Law of the Press for the School of Journalism. These courses carry no law credit and are conducted in distinct classes, but by members of the law faculty and in the Law School Building. The College of Arts and Sciences, at the request, and acting on the suggestion of the law faculty, is conducting three pre-law courses, one of two years and two of three years each. To get the maximum effect in these pre-law courses, and especially in the two-year course, two sections, composed exclusively of pre-law students, were conducted last year in English Composition and English Literature. These worked so well, largely because the students in them studied with a sense of an objective, that a third pre-law section has been added this year, in Latin.

Members of the law faculty are preparing a handbook for this pre-law Latin section, made up largely from the Latin phrases and terms of Latin origin in the first-year case-books in the law school.

The total number of pre-law students in Indiana University, preparing in these courses and sections for entrance to professional work of the law school, is 168 this semester.



The School of Law of the University of Kansas opened this fall with a total enrollment of 132, of whom 41 are in the first year class, 33 in the second year class, and 24 in the third year class. There are 34 students from other departments of the University.

There are no new members of the faculty. Associate Professors J. E. Hallen and M. T. Van Hecke have been promoted to the rank of Professor of Law.

The summer session of ten weeks was conducted by Professors Wm. L. Burdick and Frank Strong, of the regular faculty, and by Professors W. C. Dalzell, of Tulane University, W. A. Sturges, of the University of Minnesota, and R. H. Weitach, of the University of North Carolina.

Professor J. E. Hallen taught the courses in Insurance and Labor Law in the summer session of the University of Texas, and Professor M. T. Van Hecke taught the courses in Sales and Carriers in the summer session of the University of Wisconsin.

The two first year courses in Forms of Action and Legal Bibliography have been consolidated into a new two-hour course in Introduction to the Study of Law, on the basis of the material bearing that name, prepared by Professor E. M. Morgan, of Yale. The course is being given by Professor M. T. Van Hecke.

Professor Thomas A. Larremore will give a course on the law of Oil and Gas, using the new casebook by Professor Kulp.

On November 17 the work on the foundations of the new law school building of George Washington University was begun. This building will be on the west side of Twentieth street, north of H, within one short block of Pennsylvania avenue. It will be the second unit of the new quadrangle of University buildings which will eventually occupy the whole square between G and H, and Twentieth and Twenty-First streets.

The present quarters of the law school which were purchased by the University in 1920 have been satisfactory in many ways, but the new building will be by far the best equipped and most adequate home the law school has had in its history.

The new building will be of colonial design, four stories, with a frontage on Twentieth street of 108 feet and a maximum depth of 65 feet. In construction and design it will be similar to Corcoran Hall, the splendid new building of the department of Arts and Sciences.

The new building will contain adequate classroom accommodations for 1,300 students.

and library space for 40,000 volumes. On the first three floors will be six large classrooms and three small moot court rooms. In addition there will be ample space for the offices of administration, a large and well-equipped lounge and smoking room for men students on the basement floor, and a commodious rest room for women students on the second floor.

On the first floor there will be a large classroom which, when equipped with desks similar to those now in use, will accommodate 300 students, but which can when used as an auditorium accommodate over 400. On the same floor will be a room similar to our present Alumni Room, fitted up as a moot court, but available for meetings for student organizations and for the alumni association. On the second floor there will be three large classrooms, each accommodating 150 students, and on the third floor one large classroom, with a maximum capacity of 210, one smaller room, which will be equipped both as a classroom and moot court room, with a maximum capacity of 120, and two smaller moot court rooms. On this same floor will be the office of the clerk of the moot court.

The fourth floor, which will be the library floor, will be especially well adapted for its purposes. Directly adjoining the library and stack room will be eight offices for members of the law faculty. This proximity to the library will be a great advantage; an advantage which not many law school buildings afford. On the same end of the building will be a large reading room, with windows on the east, south, and west, with a maximum capacity of approximately 150 readers. On the north end of the building will be the stack room. The reading room and stack room will be equipped with the best modern library equipment, and the space available provides growth for many years.

This year's entering class in the law school was the first to enter under the new and more stringent requirements for part time students. This year's class entered under a flat four years requirement. In addition the number of hours required for the degree was increased more than ten per cent. From an analysis of the registration of last year it was estimated that the first year class would this year number approximately 265. This year, however, the registration has been much larger than was anticipated. In the first year class a total of 322 have already been enrolled, and after the completion of the February registration that total enrollment in the first year will be approximately the same as last year. In other words, the increase in requirements has not materially reduced the registration in the first year class. The total registration in the law school to date is 941.

The full-time section of the law school,

consisting of students who take the full course, that is now given between 9 and 12 in the morning, now numbers more than 150. This full-time section of the law school has shown a steady and encouraging growth. The new requirements, under which part-time students are required to spend four years, instead of three, while full-time students are allowed to complete the course in three years, have had a marked effect on the full-time section. This first year class in the morning numbers 77, the largest full-time section we have had in the history of the school. Under the new requirements, it is expected that the full-time section will develop into a school of 250 or 300 students.

Professor Walter L. Moll has been added to the faculty of the law school as professor of law and is teaching the courses in Contracts and Sales. He will also give in the second semester an introductory course in Roman Law. Professor Moll received his LL. B. degree at Indiana University. He received in June, 1924, the degree of S. J. D. from Harvard. Before beginning the study of law, Mr. Moll was professor of Greek and Latin at Concordia College, and part of that time was professor of English there. He was a student at Johns Hopkins for several years, pursuing work toward the degree of Doctor of Philosophy, and was also a student at the University of Berlin for a time.

Professor Hector G. Spaulding returned to the law school this year after a year's leave of absence at Harvard, where he was Ezra Ripley Thayer Teaching Fellow during the year 1923-24, and completed the course for the degree of S. J. D. Professor Spaulding is giving the courses in Equity, part of the work in first year Property, and a course in Administrative Law.

Professor Clarence M. Updegraff is on leave of absence during this academic year, taking the postgraduate course at the Harvard University Law School for the degree of S. J. D. He has been appointed Ezra Ripley Thayer Teaching Fellow for this year at the Harvard Law School.

Dean Wm. C. Van Vleck was a member of the law faculty at the University of Michigan during the summer session of 1924, teaching the subject of Torts.

Whitley P. McCoy, Law '21, has become associated in the practice of law with Arthur B. Chilton in Montgomery, Alabama. Mr. McCoy was assistant professor of law at our school during 1923-24. He left the law school last spring to accept a teaching fellowship at the University of Chicago Law School, while taking their postgraduate course, but subsequently changed his plans and decided to enter practice.



Professor Eugene Wambaugh has resigned from the Harvard Law School and the University corporation has appointed him Pro-

fessor Emeritus. Professor Wambaugh is a Harvard graduate of the class of 1876, with a law degree in 1880. He has been Professor of Law at Harvard since 1892 and Langdell Professor of Law since 1903.



Word was received in October that the School of Law of the University of Kansas has been granted a charter of the National Honorary Law School Society of the Order of the Coif.



Lauriz Vold is added to the faculty at the University of Nebraska College of Law as Professor. He had been at North Dakota for a number of years. Professor Dodd has been given charge of the Nebraska Law Bulletin, which has been made the official organ of the Nebraska Bar Association, and it is hoped that its scope and usefulness to the bar may be increased. The experiment of having first year students report semimonthly with their note books to an instructor, for criticism and advice, is being tried.



The Cornell University College of Law opened on September 29th with 190 students, an increase of approximately 50 per cent. over 1923-24.

Although the school does not go to a graduate basis until 1925, 43 per cent. of the students enrolled have college degrees, or are seniors in the College of Arts and Sciences at Cornell.

The summer session of 1924 had an attendance of 80 students, an increase of about 100 per cent. over the 1923 session. Besides the work offered by regular members of the Cornell Faculty, courses were given by Professors Vance, of Yale, Scott, of Harvard, Ballantine, of Minnesota, Doble, of Virginia, and Reese, of Dickinson.

Professor Charles K. Burdick spent the summer in Europe. He attended the meeting of the American Bar Association in London, and spent some time in Geneva studying the League of Nations.

Professor E. H. Woodruff has just completed the third edition of his casebook on Insurance.

Professor Robert S. Stevens presented to the Conference on Uniform State Laws in July his draft of a Uniform Incorporation Act. The draft was favorably received, but referred back to the committee for further consideration.

Dean George G. Bogert has returned from a sabbatical leave, during which he practiced law as a member of the firm of Whitman, Ottinger & Ransom in New York City. He was re-elected Secretary of the National Conference of Commissioners on Uniform State Laws at the meeting held at Philadelphia in July.

Professor O. L. McCaskill will be on leave of absence during the second term of the year 1924-25. He expects to spend several months in California.

Horace E. Whiteside, A. B. University of Chicago, LL. B. Cornell, has been appointed an assistant professor, and will continue as Secretary of the College.

Professor Lyman P. Wilson taught at Columbia Law School during the summer session.



Two new courses have been added to the curriculum of the Law School of the University of Pennsylvania. Both of these courses are electives for third year students. One is Admiralty Law, given by Professor Wright, and the other is a course on Damages, given by Professor Register. Professor Austin T. Wright has joined the law faculty as a full professor from the Law School of the University of California. Prior to his professorship there he was in active practice in Boston and in San Francisco. Professor Layton B. Register, B. S. and LL. B. Univ. of Pennsylvania, has accepted the position of Assistant to Dean Mikell and Lecturer. As translator, he has contributed to the Continental Legal History Series and the Evolution of Law Series.



The Law School at the University of North Carolina has been considerably reorganized. It is now settled in a new building named Manning Hall. The outside material of this building is brick, finished with Indiana limestone. The interior finish is oak and marble. It contains two large classrooms and three small classrooms, a library, locker room, smoking room, and seven offices. The library is equipped with Snead stacks and has a capacity of 30,000 volumes.

Merton L. Ferson has become Dean of the school, in place of Dean Lucius McGehee, who died in October, 1923. One man has been added to the faculty, making in all six full-time teachers. Some lectures are given at the school by members of the Supreme Court. Mr. Frank S. Rowley, LL. B., LL. M., is the man last added to the faculty. He led the class of 1923 at George Washington University and taught during the year 1923-24 at the University of South Dakota.

The North Carolina Law Review will be continued under the editorship of Professor Robert H. Wettach.

The students have organized a number of clubs. Cases are argued in these clubs after the manner they would be argued in an appellate court. The aim is to provide training in actual court practice and experience in making independent investigation of mooted law questions. The movement was inspired and is guided largely by Professor Albert Coates, who graduated at Harvard in 1923.

The work in the clubs is being correlated with that on the Law Review by assigning to the clubs for argument the same cases that will become subjects of Law Review notes.

Professor Coates is offering a new course in Taxation. The great public improvements now going on in North Carolina make this an important subject.

Professor A. C. McIntosh, who has been Acting Dean since Dean McGehee's death, now gives his full time to teaching and is giving all the Procedure courses. The work of Professor Patrick H. Winston remains nearly the same as in past years.



The Brooklyn Law School of St. Lawrence University has begun its twenty-third year with the largest enrollment in its history. Twenty-two hundred and thirteen students are now enrolled. This is, perhaps, the high-water mark in numbers, as the requirement of one year of college training as a prerequisite to entrance goes into effect next year; the requirement of two years, in the fall of 1927.

Classes of the first, second, and third year meet in forenoon, afternoon, and evening sessions. The first year class is divided into five sections.

Dean William P. Richardson, who has been the Dean of Brooklyn Law School from its inception, attended the London meeting of the American Bar Association during the past summer, and also made an investigation of the courts and their procedure in England and on the Continent.

Two teachers have been added to the faculty:

Mr. Donald F. Sealy will teach a portion of the classes in Torts, Bailments, and Domestic Relations. Mr. Sealy is a graduate of Columbia University, both in the College of Liberal Arts and in the Law School, where he received his bachelor's degree in 1923.

Mr. Markley Frankham will teach a portion of the classes in Contracts, Insurance, and Municipal Corporations. Mr. Frankham has received the degrees of Bachelor of Arts and Bachelor of Laws from Ohio State University and has also studied law at George Washington and Columbia Universities.

During the past school year, under the direction of Professor Edwin W. Cady, practice court work was conducted by members of the senior class and proved highly successful. Prominent members of the bench and bar gladly assisted in the trial of hypothetical cases and in giving the members of the senior class wholesome advice in the trial of cases. The work will be repeated during the current year.



The St. Louis University School of Law has put into effect all of the requirements of

the American Bar Association, including the exclusion of special students, and consequently the enrollment has decreased considerably. To offset this, a large enrollment is reported for the first year of the pre-legal course given in the Arts and Science department.

The evening course, which heretofore has covered a period of four years, has been lengthened by adding four more weeks to each class year.

Chief among the faculty changes is the addition of two new full-time instructors, Messrs. Herbert D. Laube and Vernon A. Vrooman.

Mr. Laube received his L. B. from Wisconsin in 1903, A. M. from Michigan, LL. B. from Columbia University, and S. J. D. from Harvard. He is a member of the Wisconsin bar.

Mr. Vrooman holds the degrees of A. B. from Nevada University, LL. B. and LL. M. from Albany Law School, and J. D. from Stanford University. Before taking his graduate work at Stanford, he had spent some six years in active practice in New York and California. He has taken over the courses in Code Pleading, Public Service Corporations, Negotiable Instruments, Agency, and Domestic Relations, while Mr. Laube is teaching the subjects of Torts, Common-Law Pleading, Wills, Bailments, and Evidence.

In addition to Mr. Laube and Mr. Vrooman, Dean Eberle, Mr. James Higgins, secretary of the Law School, and Judge C. Orrick Bishop, who have been with the school for some years, will continue as full time professors.



The University of Southern California School of Law opened this year with a registration of 382 students. That Los Angeles and the University of Southern California are becoming more of a center of education is indicated by the fact that representatives of forty-nine different colleges and universities are now enrolled in the Law School.

The summer session of 1924 was very successful, and was made more interesting than usual by the visit of former Dean O. A. Harker, of the University of Illinois. Judge Harker offered a course in Common-Law Pleading, using his own book, soon to be published, as the basis for a very successful course. Dean Harker's long experience on the bench and his later experience as a law teacher make him exceptionally well qualified to give Common-Law Pleading.

The subject of Lien Law was offered in the summer session for the first time by Loyd Wright, Esq., Instructor in Law, who is a member of the Los Angeles bar.

The full-time faculty is now composed of Dean Frank M. Porter and the following Professors of Law: Clair S. Tappan, Charles E. Millikan, Paul W. Jones, and W.

Turney Fox. Glenn B. Whitney has also been added to the faculty on a full-time basis, devoting his time to instruction in Legal Bibliography, Research, and Practice Court, in which department he is assistant.

Dean Frank M. Porter attended the July meeting of the Council on Legal Education and also the annual meeting of the American Bar Association in Philadelphia. Dean Porter and Professor Charles E. Millikan also attended the annual convention of the California State Bar Association; Professor Millikan being a member of the Section on Legal Education and a member of the Board of Trustees of the Los Angeles Bar Association, the hosts of the convention.



One new full-time member has been added to the faculty of the School of Law of Washington University, St. Louis, Missouri. This is Professor Bryant Smith, who was formerly on the faculty of the Law School of the University of Colorado.



On May 7, of this year a complimentary banquet was tendered by the University of Colorado School of Law to Dean John D. Fleming to commemorate his twentieth year as Dean. Besides the students and faculty, President Norlin of the University and many alumni of the school were in attendance.

Associate Professor Bryant Smith has resigned from the school to accept a professorship in the School of Law, Washington University, St. Louis, presided over by Chancellor Herbert S. Hadley, with whom Professor Smith was formerly associated in the University of Colorado. Professor Wiley Blount Rutledge, Jr., a graduate of the school, an A. B. from the University of Wisconsin, and for some years in practice in Boulder, has been appointed in Professor Smith's stead.

The summer session of the school closed a successful term on August 29. At the special commencement at the end of the summer school, eight students received the degree of LL. B. Professor Charles S. Potts, of the University of Texas Law School, taught the subjects of Constitutional Law and Bailments and Carriers in the summer session.

Students of the school taking the July bar examinations in Denver all successfully passed, as did two taking the recent bar examinations in California, three in New Mexico, one in New Hampshire, and two in New York.



The changes in the law faculty of the School of Law at the University of North Dakota are:

Mr. Lauriz Vold, after continuous service of nine years, resigned in June to accept a

position on the faculty of the School of Law at the University of Nebraska, Lincoln, Nebraska.

Mr. Frank S. Rowley, after one year's service, resigned to accept a position on the faculty of the School of Law at the University of North Carolina.

Mr. William Burby and Mr. Frederick C. Lusk have been employed to fill the vacancies. Mr. Burby will teach Property, Trusts, Mortgages, Wills, and Evidence. Mr. Lusk will teach Torts, Sales, Partnership, Bankruptcy, and Negotiable Instruments.



Dean Lile, of the Law School of the University of Virginia, sends in the following report:

"The Law School begins the session of 1924-25 with several changes in the personnel of its faculty, as well as in courses and schedules. Following the death of the lamented Prof. Raleigh C. Minor, in June, 1923, Francis Dean G. Ribble, B. A., M. A., LL. B. (Univ. Va. '21), was made acting associate professor in charge of Professor Minor's courses. Prof. Ribble had already been serving as temporary supply during Prof. Minor's illness, and had shown such aptitude as a teacher that at the close of the session of 1923-24 he was promoted to a permanent place on the teaching staff, with the title of Associate Professor. To him have been assigned the subjects of Bailments and Carriers, Real Property, Constitutional Law, and Criminal Procedure. At the same time an additional full professor was named, in the person of Harold H. Neff, B. S., M. A., LL.B. (Univ. Va.). Professor Neff is a native Virginian, but for several years had been practicing law in New York City. He takes the subjects of International Law, Conflict of Laws, Public Corporations, Negotiable Instruments, Practice at Law, and Drafting. The teaching staff now consists of five full professors and one associate—all on full time. The policy of the Law School has never sanctioned the presence of active practitioners as a regular supply in the lecture rooms.

"This increase in forces made possible the adding of new topics to the curriculum—Drafting and Legal History—and the enlargement of other existing courses.

"A radical departure has been made from the custom of a century, in shortening the lecture periods from one and a half hours to one hour. Former students of the Law School will note this bit of iconoclasm with amazement, but probably not unmixed with applause. The step at least indicates that the sun do move (sometimes), even at Virginia.

"The enrollment of 226 students for the present session to date is normal.

"The long-established regulation denying advanced standing to students from other law schools is noted in rather pleasing fashion in the report of Mr. Reed, of the Carnegie Foundation, issued last year. The regulation was adopted many years ago, after very mature consideration, and after several years of experiment with the prevailing custom. This policy is, of course, not based on the theory of the superiority of the instruction given at Virginia, but on the practical difficulty of arranging schedules for the immigrant, due to the absence of standardized practice among the law schools in the assigning of curricular units to particular years. The regulation has worked most satisfactorily, and has become an established and cherished tradition."

The following notice in regard to the University of Pittsburgh Law School appeared in the Pitt Weekly:

"Two new associate professors James P. Herron and William H. Eckert, were introduced at the general assembly opening the thirtieth year of the School of Law at the University of Pittsburgh, in the Chamber of Commerce auditorium, last Monday afternoon. Dean Alexander Marshall Thompson, Judge Jacob Jay Miller, and Judge H. G. Wasson were the assembly speakers.

"Professor Herron, better known as 'Pat' Herron, graduated from the College of the University in 1915, cum laude. He entered the Law School, and had completed two years of work when he joined the Aviation Corps. He finally received his degree of Bachelor of Law in 1920, and since that time has been associated in practice with Jesse T. Lazear. While in the college he played on the football team for three years, was a member of the famous 1916 eleven, and received a position of honor on Walter Camp's All-American team. Until this year he has for several seasons assisted in coaching the varsity football squad, and for one year served as head coach at the University of Indiana. Herron will give instruction in Property I.

"William H. Eckert graduated from the School of Business Administration in 1921, 'with highest honors.' He entered the Law School the same year, and graduated last June with 'high honors,' the first time in the history of the University that this commendation has been conferred. Mr. Eckert is associated with the firm of Gordon, Smith, Buchanan & Scott. He will give the course in Sales.

"In spite of the increased entrance requirements of a college course which has been in effect for two years, advance enrollment figures indicate that the attendance will slightly exceed the average of two hundred, which has been the total for the past three years. About 88 of these are in the first year class. The Pitt Law School is exclusively graduate in character."

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The only change in the faculty of the University of Oregon Law School is the addition of Professor Hugh E. Rosson. He is a graduate of Knox College and of the Law School of the University of Iowa. Professor Sam Bass Warner taught in the summer session of Northwestern University Law School, and completed some research work for the American Institute of Criminal Law and Criminology in the field of criminal statistics.

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Ninety-eight men from 29 different colleges and universities constitute the first year class this year at the Law School of Western Reserve University. The total attendance is 240, which is the largest in the history of the school.

The only change in the faculty is the addition of Mr. Millard Sheridan Breckenridge, Ph. B. University of Chicago, 1917,

LL. B. Yale University 1918, and formerly of the State University of Iowa Law School. He takes the place of Professor E. F. Albertsworth, who is now at the Law School of Northwestern University in Chicago. Professor Breckenridge will teach the subjects of Agency, Negotiable Instruments, Trade Regulation, Municipal Corporations, and Labor Law.

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Notwithstanding the addition of one year of college work to the entrance requirements, the School of Law of New York University began with a decrease of only about 100 in the first year class. A course in Professional Ethics and a course in Federal Procedure have been added to the curriculum. Both courses will be given by Judge Edwin L. Garvin, of the United States District Court for the Eastern District of New York. Mr. George A. Spiegelberg, B. A. Cornell 1918, LL. B. Harvard 1921, has joined the faculty as an instructor in Evidence.

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Dean Slagle has been added to the faculty of the College of Law of the University of Florida. Professor Slagle took his A. M. at Columbia, his LL. B. at Yale, and is experienced in teaching and in the practice. Other members of the faculty remain unchanged.

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The College of Law of West Virginia University has made no changes in its faculty for the coming year. The requirement of two years of college work for admission to the law school was put into effect at the beginning of the year. The registration shows an increase over last year's figures, though the entering class was somewhat smaller.

Professors Hardman and Dickinson conducted a six weeks summer session during the past summer. Professors Hardman and Carlin assisted the Revision and Codification Commission which is engaged in a recodification of the Statutes of West Virginia. These professors will be in consultation with that commission at frequent intervals until it reports to the Legislature next January. Dean Madden taught Future Interests at the University of Chicago during the summer.

The Supreme Court of Appeals of West Virginia has announced new rules for admission to the bar, including the abolition of office study, and the College of Law has recommended the repeal of the statute conferring the diploma privilege upon its graduates.

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Professor Albert Levitt has been added to the faculty of the School of Law of Washington and Lee University, and takes the place vacated by Professor Joseph R. Long. Professor Levitt received his A. B. degree at

Columbia University in 1913, LL. B. at Harvard University Law School in 1920, and J. D. at Yale University Law School in 1923. He was formerly Assistant Professor of Law at George Washington University Law School and Professor of Law at the University of North Dakota Law School. Recently he has filled the position of Special Assistant to the Attorney General of the United States. Professor Levitt's subjects at Washington and Lee University are the following: Criminal Law and Procedure, Mortgages, Quasi Contracts, Insurance, Public Service Corporations, Bankruptcy, and Conflict of Laws.

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There have been no changes in the faculty or courses of the Boston University Law School, except for the addition of an elective course on the History and Development of Parliamentary Law and Procedure, which is conducted by Mr. Frank E. Bridgman. Mr. Bridgman has been Assistant Clerk of the House of Representatives of Massachusetts since 1897 and Assistant Secretary of the Constitutional Convention of 1917-19.

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Professor O. S. Rundell, of the University of Wisconsin Law School, is on leave of absence for the first semester of this year and is teaching at the University of Chicago Law School. During his absence his courses are taken by Maxwell H. Herriott, B. A. Grinnell 1920, B. A. Oxford University 1922, B. C. L. Oxford University 1923.

Professor Howard L. Smith, University of Wisconsin Law School, who was on leave of absence last semester, has resumed his work in the Law School.

Professor Eugene A. Gilmore, who has been on leave of absence from the University of Wisconsin Law School for the past two years, and is now Vice Governor of the Philippines, has had his leave extended to June, 1925.

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With a 300 per cent. increase in the first year law class, the Mercer University Law School promises the best year in the history of the institution.

Nearly 2,000 volumes have been added to the law library, including the complete sets of the leading law journals and periodicals and the New York Supplement.

Dr. D. H. Kerchner, J. D. University of Chicago, has succeeded Dr. John Howard Moore as Professor of Law and Law Librarian. He will have the field of Contracts and closely related subjects. Prof. J. A. McClain has been elected to teach Criminal Law and Bailments and Carriers. With these two exceptions, the faculty remains unchanged. Judge Wm. H. Fish, former Chief Justice of Georgia and Dean of the Mercer Law School

for the past two years, is teaching Georgia Practice, Evidence, and Wills. Dr. Rufus C. Harris, J. D. Yale Law School, and Secretary of the Mercer Law School for the past two years, is teaching Torts and the Property subjects.

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Since the publication of the last bulletin, the Lamar School of Law of Emory University, Atlanta, Ga., has changed its ruling with reference to entrance requirements. The school now requires at least two years of college work to be presented by all applicants for admission, and hereafter no special student will be admitted in any case as a candidate for the degree.

Faculty Changes.—Hon. Samuel C. Williams, ex-Associate Justice of Supreme Court of Tennessee, who has been Dean of this school for the past five years, and who was the school's first active Dean, has resigned and will return soon to his former home at Johnson City, Tenn. Professor Paul E. Bryan, who has for several years been Secretary of the Law School and Professor of Law, is Acting Dean for the year. Additions to the full-time faculty for the year are Professor J. M. Cormack, A. B. Northwestern University, LL. B. Yale University. Professor Cormack has practiced law since his graduation from Law School, with the exception of two years during the war. Since the war he has been practicing in Beaumont, Tex., and now comes from a summer spent in graduate work in Yale Law School to be Professor of Law in Emory University. Professor H. W. Caldwell, A. B. University of Georgia, LL. B. Harvard University, comes to Emory as Assistant Professor of Law. This gives the Law School four full-time members of the faculty.

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De Paul University College of Law, Chicago, opened September 15 with the largest registration in the history of the school. The increased preliminary educational requirements did not seem to have much effect on the registration, inasmuch as 160 freshmen were enrolled in the College.

Professor N. D. Reardon, full-time member of the faculty, resigned, and Professor Ralph S. Bauer has been engaged to fill the vacancy. Professor Bauer has taught law in the Emory University College of Law and also in the John B. Stetson University College of Law. He is the author of Bauer's text on Damages and Bauer's Casebook on Damages. He also is a collaborator with Professor Britton on Britton & Bauer's Cases on Business Law.

Professor Bauer holds the degrees of A. B. from the University of Illinois, A. M. from the James Millikin University, and J. D. from the University of Chicago.

A great many new books have been added to the library of the College of Law. The complete Reporter System is now available for the students, together with a new and complete set of text-books on the more important subjects of the law and a complete set of the English Reports Reprint.



The school year of Loyola University Law School, Chicago, has been increased in the evening division to forty weeks. The case system has been adopted entirely in the day school and to a large extent in the evening school.

The school has added two full-time members to its teaching staff. John V. McCormick, who was formerly a member of the firm of Fulton, McCormick & Fulton, is Secretary of the school. Francis J. Rooney, formerly associated with Wright-Martin Air Craft Corporation and Wright Aeronautical Corporation, in charge of the contract relations with the United States government, has been appointed Professor of Law and Bursar. Sherman Steele continues as Professor of Law. Fred A. Garlepy, Urban A. Lavery and Stephen E. Hurley have been appointed as instructors in the evening school. A one-year pre-legal course has been added to the evening school.

This year the school has in residence 211 students.



Dean Frierson, of the University of South Carolina School of Law, reports the addition of two members to the faculty, namely, Professor Benjamin D. Hodges, A.B. Harvard, 1910, and Professor Malcolm L. McCrea, LL.B. University of South Carolina, 1924.



The University of Kentucky College of Law began its seventeenth year with 109 students in attendance. Professor Charles J. Turck, who comes from the Law School of Vanderbilt University, has taken up his duties as dean, succeeding the late Judge William T. Lafferty, who was Dean of the Law School since its founding in 1908 until his death. The other full-time members of the faculty are Professors Lyman Chalkley, W. Lewis Roberts, and H. J. Scarborough. Professor Roberts will continue to act as faculty adviser to the Kentucky Law Journal.

During the year, a series of addresses will be given before the student body by members of the faculty and prominent members of the bar. Among these will be Hon. Flem D. Sampson, Chief Justice of the Court of Appeals, Hugh Riddell, Robert Gordon, and Judge R. C. Stoll. President Frank L. McVey will also address the students and will give the course in International Law as usual.

The students have organized a number of law clubs, which, it is hoped, will supplement the work of the classrooms. The library has been strengthened by the purchase of needed text-books, a set of the Public Utility Reports, and by the gift by the state of a complete set of Kentucky Reports, which supplements the set already in use. Miss Clara White continues her service as librarian.

A Homecoming Luncheon for the Law Alumni was held on Saturday, November 1, at the Phoenix Hotel, and was well attended by alumni from all over the state.



The Law Department of the University of Georgia announces that, beginning with the autumn term in 1924, the entrance requirement of one year of college work went into effect. The entrance requirement of two years of college work goes into effect at the opening of the autumn term in 1925. The number of entrants to the first year class is gratifying. The quality of students is of course superior to that of former years.

There have been no changes made in the faculty.



Mr. Frederick A. Brown and Mr. Clarence R. King, who are on the faculty of the School of Law of Syracuse University, are on leave of absence for the year. Professor Ralph E. Himstead has been added to the faculty, and is teaching a new course in Legal Speech, which has been added to the freshmen curriculum. He is also teaching Domestic Relations and Tax Law, which are included in the junior schedule.



Portia Law School opened the seventeenth year of the evening division on September 22, and the fifth year of the day division on September 29, with a record registration in both departments. One hundred fifty-two new students have enrolled thus far, making 362 enrolled in all classes. It is estimated that about 380 or 390 students will represent the total enrollment by the time registration closes. The classes are restricted to women students only.

A new six weeks course on Legal Ethics will be given by Professor Lee M. Friedman in the spring. This course was offered as an elective last year, but has been made a part of the required curriculum for freshmen, beginning this year.

A bar preparation course, required for seniors, will be given for the first time this year, continuing throughout May and June. All members of the senior class, as well as all graduates who have not passed the bar examination, are entitled to enroll for this course, which is furnished to them without expense. It is expected that the course this year will

be conducted by Professor Frank L. Simpson, of Boston University Law School.

A special elective ten weeks course on State and Federal Income Taxation began October 15, in charge of Oliver A. Wyman, Esq.

One method of instruction adopted by the school, which is deemed of almost fundamental importance, is the requiring of numerous problems to be answered in writing by the student; each problem being prepared by the instructor from the facts in some actually adjudicated case. The present size of the student body makes it impossible for the instructors to correct these problems, as they did formerly, and a Department of Written Work was organized last year for this purpose, with a competent corps of correctors. The magnitude of the task assumed by this department is shown by the fact that nearly 60,000 written answers were received, stamped graded, and returned to the students during the school year of 1923-24.



There has been no change in the faculty of the School of Law, University of Denver, except the addition of Robert Henry Dunlap, Ph. B. University of Chicago, LL. B. Harvard University, who will give instruction in a new course on the Construction and Interpretation of Statutes.

The decreased enrollment, 119 as compared with 172 in 1923-24, is due to several causes, among which are the rule requiring two years of college work for candidates for the degree and the new rule of the Colorado Supreme Court requiring one year of college work of those admitted to the bar examinations, thereby further limiting the small number of special students that the school consents to admit.

At the last commencement there were forty-seven graduates, the largest number in the history of the school, among whom were two of the three who tied for the first place and four of the six who tied for second place in the last Colorado bar examination.



Suffolk Law School reopened for its nineteenth year on September 22. With mid-year registrations, the attendance this year promises to total nearly two thousand students. This increase is due in part to the natural growth of the institution, but also to the new day department instituted this year. Work in the day department is now confined to freshman classes only, but next year will include sophomore work, and thus continue progressively until the work of all four years is being given.

The day department is divided into two sessions, one from 10 to 11:30 a. m., another from 4 to 5:30 p. m. The evening school continues as before, one session from 6 to

7:30 p. m., another from 7:35 to 9:05 p. m. Thus students have four choices, the work in each division being identical. Professors alternate in teaching the different divisions, one professor taking the 10 a. m. and the 6 p. m. sessions one week, and the 4 p. m. and 7:35 p. m. division the following week.

It is interesting to note the large number of business men coming to Suffolk Law School each year to secure the lawyer's training in commercial subjects. An unusually large number of accountants are enrolled this year. Many high school teachers and also three college professors and instructors have entered this year.

The completion of the new annex in February, 1924, added a seating capacity of sixteen hundred and made possible a considerable enlargement of our present library. The library now extends across the entire front of the building on the second floor. Many new volumes have been added during the past few weeks. The faculty for the ensuing year consists of twenty-eight professors and assistant professors, with no changes since last year.



Northeastern University School of Law opened its twenty-seventh year on September 22. The enrollment to date shows a total increase in Boston of 608 students in four years, or very nearly 150 per cent. Similar increases are noted in the divisions of the school in Worcester, Springfield, and Providence.

A gratifying feature of this increase in the student body is that it is paralleled by a corresponding increase in the standards. The school admits only those who are graduates of approved secondary schools before they commence their study of law, and in addition places rigid requirements upon the students as they go through the studies of the various years. The increases in standards during the past four years has more than outdistanced the increases in the number of students.

The character of the student body is also very gratifying. Thirty-two per cent. of the students are over thirty years of age, the average age being very nearly twenty-six years. An analysis of the entering class this year shows that slightly over 43 per cent. are college men and women, most of them holding academic degrees in the institutions which they previously attended.

Further than this there seems to be an increased appreciation on the part of outstanding business men and professional men, particularly in the field of accounting, of the value of law in business. The enrollment during the past four years has shown a significant trend in this respect, more and more business men with responsibilities entering the school and successfully completing the course of study.

The school starts this year operations for the first time under its revised curriculum. Significant in this revised curriculum is the lengthening of the school year from thirty-two weeks to thirty-six weeks, thus offering the opportunity for more thorough work. Perhaps the most important changes in the curriculum are the combination of Personal Property and Sales into a single course which is paralleled by a Real Property course known as Real Property and Its Transfer Inter Vivos, which offers a combination of so much of the former Property I course as is related to Rights in Land and Deeds. It is expected that the giving of Personal Property and Real Property concurrently will be of considerable benefit to the student body. Property III is taken from the fourth year and placed in the third year. Partnership is eliminated from the program and a new course is offered known as the Law of Business Associations. An additional Suretyship course is placed in the curriculum.

The faculty of the school remains fairly constant, no significant changes being announced further than the appointment of Murray F. Hall to teach Bankruptcy in Boston, Daniel W. Lincoln to teach Bankruptcy in Worcester, and William W. Moss as Associate Dean in the Providence Division.

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Mr. Robert E. Mathews has resigned from the faculty of the University of Montana to become Professor of Law at Ohio State University. Mr. Chester A. Smith, A. B., LL. B., South Dakota, and S. J. D. Harvard, who has had two years of active teaching experience, is now taking the place of Professor Mathews. The Law School admits no special students and the enrollment is consequently smaller than before the change in requirements went into effect.

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The College of law at John B. Stetson University, De Land, Florida, began its twenty-fifth year with an excellent registration, a senior class of twenty-five, a junior class of twenty-four, and a sophomore class of thirty-three. Its faculty consists of President Hulley, Dean Carson, and Professors Futch, Tribble, and Bates. They are all specially trained in their lines of work. Professor Benjamin M. Hulley, of the department, has been given leave of absence for work with the United States consular service.

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After numerous requests from alumni and friends of St. Mary's College, Oakland, California, a Department of Law was added to the Schools of the College on August 25, 1924.

The course given is a three-year course of night classes, two hours a night, and five

nights a week. The method of instruction is a combination of the case and text system, with special emphasis on California law. Courses in the first year are given on Contracts, Torts, Real Property, Personal Property, Agency, and Criminal Law. The degree of Bachelor of Laws is given to students who have received their Bachelor of Arts degree, or who have completed two years of college work.

The teaching faculty includes Hon. Frank M. Silva, Mr. Louis Di Avila, Mr. Albert T. Shine, Mr. J. Francis Coakley, and Mr. F. T. McCullough. The Dean of the Law School is Hon. Frank M. Silva. The board of directors includes Hon. Thomas J. Lennon, Associate Justice of the Supreme Court of California, Hon. William H. Donahue, Hon. Frank J. Murasky, of the Superior Court, Hon. Louis H. Ward, of the Superior Court, Mr. E. I. Barry, Mr. S. N. Andriano, Mr. A. F. Burke, Hon. Edward I. Butler, of the Superior Court of Marin county, Mr. Charles J. Hanlon, Mr. Charles J. Haggerty, Mr. W. H. L. Hynes, Mr. Wm. A. Kelly, Mr. John J. McDonald, and Mr. J. L. Taaffe.

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The School of Law of the University of Alabama, opened September 10, 1924, with a small decrease in registration as compared with that of last year. The decrease is due to putting into effect this year one year of college work as an entrance requirement. In 1926 two years of college work will be required. In addition to four years of high school work.

Associate Professor W. J. Brockelbank resigned at the close of the last academic year to accept a position of instructor in Commercial Law in the School of Business Administration of the University of Pittsburgh. The position left vacant has been filled by the appointment of Mr. R. E. Christian, of Monroe City, Missouri, as Associate Professor of Law. Professor Christian holds an A. B. degree from the University of Missouri and a J. D. degree from the University of Chicago. This is the only change in the law faculty as constituted during the last academic year.

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The Arkansas Law School opened on September 15, 1924, with a larger attendance than at any time since the beginning of the War. The faculty consists of—

J. H. Carmichael, Dean, who teaches the subjects of Contracts, Insurance, Fraudulent Conveyances, Judgments, Medical Jurisprudence, and Bailments; W. R. Donham, Law of Torts; G. W. Hendricks, Domestic Relations and Constitutional Law; T. N. Robertson, Secretary, Agency, Corporations, Conflict of Laws, Negotiable Instruments, and Pleading and Practice; John W. Wade, Criminal

Law and Procedure; John E. Martineau, Equity Jurisprudence; W. H. Donham, Real Property; A. F. House, Law of Evidence; George Vaughan, Abstracting and Searching Titles; H. M. Trieber, Federal Procedure and Law of Bankruptcy; Fred A. Isgrig, Junior Evidence and Partnerships.

John W. Wade is judge of the Criminal Division of the Circuit Court, John E. Martineau is Chancellor of the First Chancery District of Arkansas, G. W. Hendricks and A. F. House are ex-judges of the Circuit Court, and W. H. Donham is the present Prosecuting Attorney.



The 1924-25 session of the Northwestern College of Law, Minneapolis, Minn., opened most propitiously in its new quarters. The office is still retained at 729 Plymouth Building, Minneapolis, while the schoolrooms have been transferred from the Plymouth Building to the Physicians' and Surgeons' Building. Several classrooms on the second floor of that building have been taken over, and there has been established at that point a branch office. There is a decided improvement in facilities obtained by this move.

In addition to retaining the old faculty, the following members have been added thereto: William Howard Anderson, Professor of Contracts; Daniel Carmichael, Professor of Taxation; Andrew N. Johnson, Professor of Minnesota Practice and Procedure.

A good-sized first year class has enrolled, and prospects for an especially successful year are splendid.



The Benton College of Law opened its twenty-ninth session on Monday evening, September 15. There are 146 law students in attendance this year, and 65 pre-legal students. The college maintains a three-year pre-legal course and offers a four-year law course, leading to the degree of LL. B. The new study hall was opened at the beginning of this session and is being used by the student body throughout the school.

The annual college banquet will be held Saturday evening, December 6. The program is under the care of the fourth year class and the meeting promises to be well attended.



There have been the following changes in the faculty at the Vanderbilt University Law School: Mr. Charles J. Turck left the school this fall to become Dean of the Law School of the University of Kentucky. Professor John Howard Moore, A. B., J. D., has been appointed to fill the vacancy in the faculty.

Professor Moore is a graduate of Westminster College, Pennsylvania, and of Leland Stanford, Jr., University, California. He took his degree in law at the University of Chicago and was thereafter engaged in

law editorial work from 1917 to 1919 with the well-known law publishers, Callaghan & Co., of Chicago. In 1919 he joined the law faculty of the University of Florida, and in 1922 became a member of the teaching force at Mercer University. At Vanderbilt he takes the courses in Contracts, Sales, Evidence, Domestic Relations, and Bills and Notes.

Mrs. Theresa S. Davidson, a former graduate of the Law School, has been appointed Law Librarian, and Mrs. E. D. Chester acts as Registrar of the Law School.

Judge Thos. H. Malone is giving the course in Equity Jurisprudence, and Professor Albert A. White gives the courses in Bankruptcy and Trusts.

Professor H. B. Schermerhorn has been appointed as Secretary of the Law School.



There have been no changes in the curriculum of the School of Law of Fordham University since last year. The following have been added to the faculty: John A. Roberts, Ph. D., LL. B.; H. Clay Littick, A. B., LL. B.; and John F. X. Finn, A. B., LL. B. Dr. Roberts will conduct a course on Property II, Mr. Finn will give one of the Contract courses, and Mr. Littick will conduct the third year Equity course.



The Marquette University College of Law began its session this year in the new building. The enrollment is the largest on record, in spite of an increase in the entrance requirements to one year of college training, beginning with September, 1923. In 1925 two years of college training will be required.

The Law School has begun a new course for freshmen students on Principles of Legal Liability. The freshmen are also required to take one hour of Legal Argumentation and two hours of Debating, in addition to the full schedule of courses. A permanent course in Principles of Legal Research has been established and will be given by Professor Lang in the second semester.



This year two new instructors have been introduced to the Cleveland Law School. Mr. John B. Oviatt, graduate from Western Reserve Law School, is teaching one class in Pleading, and Mr. I. R. Morris, graduate of Columbia University, will teach Pleading and Corporations.

The fourth year class, which last year started with twenty members, has an attendance of one hundred and fifty. The first two subjects have proven to be courses of real interest. Hon. Frank B. Kavanagh, former United States District Attorney in this District, is the lecturer in Federal Procedure,

and Charles B. Russo, of the firm of Weed, Rothenberg, McMorris & Smith, specialists in Bankruptcy, is proving to be a very clear exponent of the Bankruptcy law. The Cleveland Law School is fortunate in securing the services of these two men.

A new library has been installed in the school, of which the Dean is justly proud. A new room has been created, with good lighting features, ample space, and over \$5,000 worth of law books added. This library is now open five nights in the week and every day, except Saturday afternoon.

Judge Willis Vickery, Presiding Judge of the Court of Appeals in the Eighth District, is serving his twenty-eighth year as Dean of the Cleveland Law School.

During the past year one of the teachers in the Law School, Carl V. Weygandt, was honored with appointment to the Common Pleas bench. His name is now before the voters for election, and the student body is unanimous in their wishes that Judge Weygandt may continue in his official capacity. Judge Weygandt received his degree of Ph. B. from Wooster College, Ohio, and his degree of LL. B. from Western Reserve University. He is a lecturer on the subject of Partnership in this school.

One of the most popular professors, Judge Samuel Silbert, of the Municipal Court, is aspiring to higher honors. He is a candidate for judge of the Common Pleas Court of Cuyahoga county this year.

The Cleveland Law School is well represented in the judiciary of the city and county. In the elections of last November Miss Mary Grossman, a graduate of this school, was elected to the Municipal bench of Cleveland. Judge Grossman had been in active practice for eleven years prior to her election. She is the first woman to be elected to the Municipal Court of this community. From all reports her court is well and ably conducted.

This last summer a survey of past graduates was made with a view towards forming an Alumni Association. The response has been so prompt and enthusiastic that steps will be taken for proper organization in the immediate future.



Again the registration of students in the School of Law of the University of Buffalo reaches a total never before attained. The registration this year is 365.

New instructors for this year are: Frank G. Raichle, instructor in Agency; Sidney B. Pfeiffer, instructor in Torts; George W. Wanamaker, instructor in Elementary Law. These new instructors are young men of high standing in the profession and graduates of the institution which now secures the benefit of their assistance.

Beginning in September, 1925, entrance re-

quirements include the completion of one year in the College of Arts and Sciences.



The registration in the Law School of the National University School of Law, Washington, D. C., is larger than last year. The increase is to be found in the first year class, which will show a total registration of three hundred. This includes some who are at present absent from the city on account of the presidential campaign. The third year class is slightly smaller; the fourth year class exactly the same.

There have been many important changes made in the school of which the following may be noted: Those relating to entrance requirements—for the J.D. degree, four years resident college work before entrance to the Law School is required; for the LL. B. degree, two years of resident college work, unless the student at time of admission is at least twenty-one years of age and has had occupational experience of a certain character. In this category fall not a few men in technical departments of the civil service of the government, such as income tax auditors in the Treasury, etc.

The faculty now numbers forty-three. The additions are as follows: Dr. Edson L. Whitney, Ph. D. Harvard, and LL. B. Boston University, Professor of Civil Law; Medical jurisprudence, Dr. Percy Hickling, alienist for the District of Columbia; Federal Tax Laws, Estate and Income, Professor McCawley; Jurisdiction and Practice of United States Court of Claims, Assistant United States Attorney General Anderson; Jurisdiction and Practice of Federal Trade Commission, Professor Clinton Robb.

Professor Robb is a brother of Associate Justice Charles H. Robb, of our local Court of Appeals, who is now and for a number of years has been connected with the faculty.

A course is offered on Anti-Trust Laws and Unfair Competition by Professor Haycraft. In addition to the Course on International Law, conducted by Professor Flournoy, a course has been added on International Claims, by Professor Le Roy, also formerly of the State Department, and now a member of a well-known firm of international lawyers.

A very interesting course on Trial Tactics is given the members of the Moot Court by Professor Rathbone. Mr. Rathbone is serving with the present Congress as member at large from the state of Illinois. He has had much experience in trial work and his practical suggestions are well received.

Dr. Putney, Dean of the American University School of Jurisprudence and Professor of Law in the National University Law School, will conduct this year a special course on History of the Law, using as text a series of historical outlines compiled by him in collaboration with Dean Carusi.

The library has been very largely increased during the past year and now includes almost all of the National Reporter System.



The University of Notre Dame College of Law started the year with three new members on the law faculty. The new members are Professor Clarence Manion, Judge Dudley Wooten, and Professor Edwin Hadley. Dean Thomas F. Konop and Edwin Frederickson, the other members of the faculty, make a faculty of five full-time professors.



The faculty of the Providence Division of Northeastern University, Providence, R. I., for the year, consists of the following men: William W. Moss, Dean; Henry M. Boss, Jr.; Sidney Clifford; Patrick P. Curran; Alfred H. Lake; Charles W. Littlefield; Albert N. Peterson; E. Butler Moulton; Charles P. Sisson.

There has been a change in the administrative staff of the school and the present officers are as follows: Director, L. Rohe Walter; Assistant Director, Ralph G. Winterbottom.

It may be of interest to know that the faculty and administrative officials feel that the present entering class in the School of Law comprises the highest type of men that we have ever received. There also seems to be more interest in the study of law than in former years.



In the T. O. Williams School of Law in the University of Richmond there is an increase in attendance over the past year of 13. The total enrollment to date is 153, which exceeds that of any previous session. The increase was not expected, in view of the additional year of college work required this year of candidates for the degree. The present requirements are two years of such work.

Three new members have been added to the faculty. Mr. Ellsworth Wiltshire, B. A., LL. B. Virginia, S. J. D. Harvard, will give the courses in Trusts and Insurance in both divisions and the courses in Domestic Relations and Legal History in the morning division. Mr. Ralph T. Catterall, B. A., LL. B. Harvard, will give the courses in Partnership and Municipal Corporations in both divisions and the courses in Constitutional Law and Evidence in the morning division. Mr. William R. Shands, LL. B. Richmond, will give the course in Private Corporations, Legal Ethics, and Conflict of Laws in the morning division. Judge J. C. Rose, LL. D. of the United States Circuit Court of Appeals, will conduct a course of lectures on Federal Procedure.

Due to the illness of Dr. W. S. McNeill, Ph. D. Berlin, LL. B. Harvard, his courses

during the fall term will be given by Mr. Leon Bazile, LL. B. Richmond, Assistant Attorney General of Virginia.

The past summer a twelve weeks course, divided into two terms of six weeks each, was offered. The enrollment showed an increase of twelve over that of the previous year.

This session all three years of the morning division established in 1922 will be offered, while only courses in the first three of the four years in the evening division will be taught.

A substantial addition to the law building was completed in time for the opening of the present session. The new addition furnishes commodious offices, seven classrooms, and a large library room.



The following changes in the faculty of the Law School of the Y. M. C. A. at Cincinnati, Ohio, have been reported: Mr. James Stewart, who has been on the faculty for many years as instructor in Suretyship, asked for a leave of absence for one year. Mr. Charles P. Taft, 2d, will lecture on this subject during the absence of Mr. Stewart. Mr. Charles Sawyer, who has been teaching Evidence, has resigned. Mr. J. Gatch will lecture on this subject. Mr. J. L. Magrath has been added to the faculty, to assist Mr. Alfred Bettman in Constitutional Law. The enrollment in the Law School shows a very material increase over last year and former years, and the graduating class of thirty-seven is much larger than any graduating class in the history of the school. In the recent bar examination two of the students took first and second place among a class of three hundred and twenty-seven applicants.



There have been several changes in the law faculty of the University of Idaho. Mr. Philip Mechem has resigned, to continue his studies for his doctor's degree in the University of Chicago, and at the same time will do part-time teaching work in the University of Chicago Law School.

Mr. S. E. Harris, J. D. (cum laude) University of Chicago 1913, has been appointed Associate Professor of Law, and will teach the courses in Practice, Pleading, Torts, and Agency. Since graduation, Mr. Harris has been engaged in the practice of law in Omaha as a member of the firm of MacKenzie, Cox, Burton & Harris.

Aside from some rearrangements in the curriculum and reapportionment of courses, there are no additions of new courses.

The courses in Quasi Contracts and Mortgages have been assigned to Professor Gill. Dean Robert McNair Davis is now giving the courses in Constitutional Law, Wills, and

Personal Property; otherwise, the curriculum remains as it was last year.



Mr. E. J. Northrup, Assistant Dean of the College of Law of Tulane University, reports the following changes in the faculty:

Professor Chandler C. Luzenberg, who has for a number of years been giving the course in Criminal Procedure, has resigned. Professor Ralph J. Schwarz, who has been connected with the school for many years, giving several different courses, but recently confining his work to the course on Equity, has resigned.

The following new appointments have been made: Professor St. Clair Adams, to give a new course on Advocacy and Legal Ethics; Professor Robert H. Marr, District Attorney of Orleans Parish, to give the course in Criminal Procedure.



Mr. Samuel M. Fegly, Director of the School of Law of the University of Arizona, makes the following report of changes in the Law School:

During the summer, Professor William B. Swinford received a call from the University of Oklahoma Law School and accepted their invitation to become a member of their staff. Professor Richmond A. Rasco, formerly of the Stetson University and the University of Florida Law Schools, will fill the vacancy caused by the departure of Professor Swinford. This is the only change in the law faculty.

Judge Kirke T. Moore, of the local bar, who has been on the staff for the past two years as special lecturer, has taken over the work of the Practice Court from Professor Curtis, who resumes the Property courses formerly taught by him.

The rapidity with which the magnificent new University Library Building is approaching completion gives good reason to hope that before the end of the present academic year the School of Law may be installed in its own building, the former Library Building of the University. The rapid growth of the entire University during the past few years has entailed more or less congestion in the School of Law as in the other departments of the University, and the lifting of this pressure from the law work will be greatly appreciated.

The registration is less by 12 students than was the registration for the corresponding semester of last year, the difference being largely in the third year class and in the special students from other departments.

It is hoped that the Legislature will establish by statute this year an advanced standard in the way of educational requirements for applications for admission to the Arizona bar. Such action by the state would greatly

increase the effectiveness and the success of the work which the School of Law is seeking to do.



The Washington College of Law reports the resignation of Elizabeth C. Harris as Dean after one year of successful service. She found that she could not continue the work without neglecting her practice before the courts. The former Dean, Emma M. Gillett, is serving as Acting Dean until a new dean is selected.

The summer session was very successful, having the largest registration in the history of the College. The summer school has the advantage of small classes and concentration of work.

The College has added three new professors to the faculty this year. Mr. James G. Britt will conduct the class in Federal Procedure, taking the place of Harry H. Semmes, who has resigned on account of the pressure of his private practice. Mr. Britt was formerly a Congressman from North Carolina, and is now counsel for the Federal Prohibition Unit. He is a teacher of experience and expects soon to publish a book on the subject of Federal Procedure. Francis Colt De Wolf takes the place of Edward C. Wynne as Professor of International Law. Mr. Wynne is absent for the year, having accepted a fellowship in Harvard University. Mr. De Wolf is a graduate of Harvard University and of Columbia University Law School. He is connected with the United States State Department as solicitor. The Patent Law course will be conducted by Alva D. Adams, who was formerly a Patent Examiner and is now a practicing attorney before the United States Patent Office. William L. Symons will continue to give the work in Trade-Marks. Miss Harris will take classes in Contract Cases and Evidence Cases.



Mr. Le Roy Bowen has been appointed instructor at the Y. M. C. A. College of Law in Minneapolis.



The faculty of the College of Law of the University of Tennessee continues the same as last year, except for the fact that Mr. Robert Muir is no longer connected with the college. His place has been filled by Mr. R. J. Hellman, who was on the law faculty of Notre Dame University, and previous to that was a member of the law faculty of the University of South Dakota. The Tennessee Law Review is being published by the law students and has met with a favorable reception by members of the bar.



The Y. M. C. A. Law School, Washington, D. C., began its sixth year on September 29

with an enrollment of twenty-seven students. To the former faculty of the school have been added the following new faculty members: Mr. Stanley H. Udy, Ph. B., J. D. (University of Chicago), International Law; Mr. Ogle R. Singleton, A. B., LL. B. (George Washington University), Patents and Trade-Marks; Mr. Charles E. Wainwright, LL. B., LL. M. (George Washington University), Insurance and Bankruptcy and Federal Procedure.

The following courses have been added to the regular law curriculum and comprise the post graduate work outlined for students: International Law, Mr. Stanley H. Udy; Admiralty, Mr. Clarence E. Miller; Equity Pleading and Practice, Mr. William A. Read; Patents and Procedure, Mr. Ogle R. Singleton; Advanced Legal Research, Dean Charles V. Imlay; Federal Procedure, Mr. Charles E. Wainwright.

A course has been arranged in conjunction with the Accountancy School, whereby the Law work formerly pursued by students in the Accountancy School may be taken in the Law School. This arrangement enables the students to complete in five years' time the regular work of the Law School required for the degree of LL. B., and for certification for the bar examinations, and the regular work of the Accountancy School required for the degree of B. C. S., and a large number of students have enrolled for this course, which is a practical arrangement to work out the needs of students who desire to prepare for Accountancy and Law.



The St. Vincent School of Law, of Loyola College, Los Angeles, California, in addition to the strong staff of last year, has been particularly fortunate in securing the services of Mr. Edward T. Bishop, County Counsel, to conduct the class in Moot Court Procedure. This class was to have been handled by Hon. Sidney N. Reeve, Presiding Judge of the Criminal Department in the Superior Court of Los Angeles County. But, owing to Judge Reeve's recent serious illness, he was obliged to withdraw from the staff for the present.

Professor Leon R. Yankwich, LL. B., is the new professor in the important subject of Pleading and Practice, and Professor Marion P. Betty, LL. B., another new addition to the faculty, is in charge of the classes in Partnership, Sales, and Damages.

Mr. William T. Aggeler, LL. B., Public Defender of Los Angeles County, after a year's absence, has resumed his lectures on Agency, Bailments, and Carriers. Mr. John F. Moroney, A. M., J. D., is handling for the first time the subjects of Elementary Law and Personal Property.

The names of the professors and subjects taught are, as in the preceding years, as follows: Fred N. Arnoldy, A. M., Real Proper-

ty; Hon. Chas. S. Burnell, J. D., Judge of the Superior Court of Los Angeles County, Constitutional Law, Remedies, and Municipal Corporations; W. Joseph Ford, A. M., LL. B., Evidence, Equity, and Trusts; Rev. George G. Fox, S. J., A. M., Logic, Metaphysics and Forensics; Charles W. Fricke, LL. M., Chief Deputy District Attorney of Los Angeles County, Criminal Law and Procedure; Frank P. Jenal, A. M., M. S., LL. B., Torts and Domestic Relations; E. J. Hagemann, S. J., A. M., Forensics; A. I. McCormick, Private Corporations; Rev. James L. Taylor, S. J., A. M., Psychology, Theodicy, and Ethics; Joseph J. Herlihy, A. B., LL. B., Negotiable Instruments, Wills, and Probate Law; Harold L. Watt, A. B., Legal Ethics, Research and Contracts.

Mr. W. Joseph Ford, A. M., LL. B., has been appointed the new Dean of the Law School. Mr. Ford is one of the most prominent practicing attorneys in the city, a man of splendid attainments and achievements, a profound legal and general scholar, and a teacher of the very highest quality and outstanding personality. No more deserved tribute to his character and ability could be paid him than this important appointment.

The advisory board of the Law School is at present composed of the following distinguished members: Rt. Rev. John J. Cantwell, D. D., Bishop of Los Angeles and San Diego; Hon. Joseph Scott, Ph. D. K. S. G.; Hon. I. B. Dockweiler, LL. D., K. S. G.; Hon. J. Wiseman MacDonald, K. P.; Hon. Paul J. McCormick, Federal Judge for the District of Southern California; Francis S. Montgomery, A. M., Ph. D.; and M. J. McGarry, A. M.



Registration in the School of Law, University of Texas, has reached 373. Dr. George C. Butte resigned as Dean in September to accept the Republican nomination for Governor. Professor Ira P. Hildebrand, who has been a member of the faculty seventeen years, was immediately elected by the board of regents to fill the vacancy. Professor D. F. Bobbitt has returned to the faculty after a year's leave of absence spent in study at Yale Law School, where he received the J. D. degree cum laude. Mr. Dudley K. Woodward, B. A. University of Texas, LL. B. University of Chicago Law School, practicing attorney eight years, will teach Bills and Notes the second semester. Judge Ireland Graves, B. A., LL. B. University of Texas, former District Judge, is teaching Trusts and Sales. Miss Doris Connerly, LL. B. University of Texas, formerly with Baker, Botts, Parker & Garwood, of Houston, is permanent Law Librarian. Professor Green taught Torts in Northwestern Law School and Professor Potts Constitutional Law in Colorado Law School during the past summer.

The changes at Drake University Law School, Des Moines, Iowa, are as follows: Professor Scott Rowley, formerly of the faculty of the University of Indiana Law School, and author of Rowley on Partnership, has been added to the law faculty as professor of law. Professor Rowley completed during the last year the fourth year of law at the Columbia University Law School. The other members of the faculty, with the exception of Professor Herman, have returned for the present school year.

During the summer quarter Wesley A. Sturges, Assistant Professor of Law in the Yale Law School, taught courses in Conflicts of Laws and Trade Regulations, and Frank S. Rowley, Assistant Professor of Law in the University of North Carolina, taught the courses in Sales and Bankruptcy. Professors Morrow, De Graff, and Forrest also taught courses in the summer school, while the other members of the faculty engaged in the practice of law.

The course in Trial Practice, and, connected with it the Practice Court, was rearranged. Trial Practice is taught in connection with Appellate Practice, following the outline of Professor Sunderland's new work on Trial and Appellate Practice. The trial work in the Practice Court has been put in the hands of the judges of the courts in the city, and the instructor in charge of the course instructs in the pleadings and paper work connected with the cases, but is relieved of the duties of presiding at the trials. A full-time clerk of the Practice Court has charge of the court files. The new arrangement makes it possible to bring cases to issue and to dispose of them more readily, thus giving each student an opportunity to try a larger number of cases. Some of the judges prefer to have the cases tried in their own courtrooms, thus giving the student the experience of the courthouse atmosphere.

The student attendance has been reduced to a very considerable extent, due to the efforts of the faculty in eliminating all those who are unfit or unwilling to do the work required. There are ninety-one students enrolled in the Law School at the present time. Of these one-third have already obtained their A.B. degrees, and many are enrolled for the combined Liberal Arts and Law course.



There have been two additions to the faculty of the New Jersey Law School, Newark, N. J., this year, Professor Leslie C. Strickland and Professor Allison Reppy. Professor Reppy was a member of the faculty of the University of Oklahoma Law School, and is a graduate of Missouri State University, A. B., and of the University of Chicago, J. D. Professor Strickland taught last year at Louisiana State University and

began instruction here in September. He is a graduate of Nova Scotia Technical College, B. S. C., McGill University, LL. B., and Yale Law School, J. D.

Professor George S. Harris has been appointed Assistant Town Counsel of Montclair, New Jersey. Mr. Harris has practically completed a book, Cases on Statutes of New Jersey, for publication by the New Jersey Law School Press.

New Jersey Law School Press is planning to publish two other books during the coming year, Cases on Evidence, by Judge Edwin C. Caffrey, and Cases on Wills, by Allison Reppy.

Professor Reppy, who is teaching the course in Common-Law Pleading, is giving practical exercises in the drafting of pleadings. This is the first time this method has been used in the school. It is hoped that practice court work may be introduced later.

Mr. Lee E. Deets, Northwestern University B. A., and Columbia University M. A., is arranging for a series of lectures by prominent attorneys for the student body of the Law School.

During the summer New Jersey Law School added extensively to its library.



The John Marshall Law School, of Chicago, celebrated last June the completion of its first quarter of a century of instruction.

The Commencement Address was delivered by Hon. Edgar A. Bancroft, recently appointed by President Coolidge as Ambassador to Japan. The subject was "The World Court."

The attendance the past year was the largest in the history of the school.

Several new members have been added to the faculty: Louis S. Hardin, A. B. Yale, J. D. University of Chicago; Thorley Von Holst, LL. B. Valparaiso University; J. Dale Thom, A. B. University of Illinois, LL. B. Harvard; Hon. Frank M. Padden, Judge of Municipal Court.



Great strides have been made by the Howard University School of Law during the last few years, and the school opened this fall in a practically new building, with adequate accommodations for more than 400 students. The library consists of 5,019 volumes, with space for 5,000 more. The entrance requirements have been raised to two years of college work, and a course in post-graduate studies has been inaugurated, based on ten year-hours of resident classroom work, leading to the degree of Master of Laws. The faculty now consists of twelve members, including the following: Hon. Fenton W. Booth, Judge of the United States Court of Claims, Dean; Mr. James A. Cobb, Vice Dean; Mr. William H. Rich-

ards; Dr. Andrew Wilson; Dr. Charles H. Houston; Mr. Edward Stafford; Mr. William L. Houston; Mr. Dion S. Birney; Mr. Charles V. Imlay; Mr. James P. Schick; Mr. E. C. Hayes; and Mr. James C. Waters, Jr.



The following professors have been added to the faculty in St. Ignatius Law School, San Francisco, Cal.: Mr. Harold Caulfield, Bills and Notes; Mr. James Harrington, Contracts; Mr. Paul McCarthy, Contracts; Mr. Robert Fitzgerald, Commercial Law.



The Youngstown School of Law (Y. M. O. A.), Youngstown, Ohio, now requires two years of college work of all students who enter the law school, beginning this fall. Substantial additions have been made to the library of the school, which now contains more than 5,000 volumes. The following new members have been added to the faculty: William T. Swanton, LL. B. Cornell; Knowles Wyatt, A. B., LL. B., Youngstown School of Law; J. H. Leighninger, A. B., LL. B. Western Reserve.



The Law School of the University of Wyoming entered upon its fourth year of work on September 9, with the registration sixty per cent. in excess of that of the preceding year. The pre-legal enrollment has increased eighty-four per cent. over the enrollment of 1923-24.

Mr. Charles H. Kinnane comes to the Law School this year as assistant professor of law. Mr. Kinnane will handle the work in Contracts and Equity during the present term. Otherwise the faculty of the Law School remains the same.

Due to unforeseen difficulties, the installation of the moot court equipment has been delayed. However, the courtroom will be ready for use by November 1.



The new building for the College of Law, Ohio Northern University, was dedicated last spring and has been since occupied. It is a commodious, modern building, contains library, reading room and courtroom with modern equipment.

Hon. Stephen A. Armstrong, Lima, Ohio, is the only recent addition to the faculty.



The number entering the first year class of the Albany Law School this fall was limited. Two hundred and sixty applications were received, of which 118 new students were accepted. Mr. J. Newton Fiero, Reporter of the New York Court of Appeals and Dean of the Albany Law School for

many years, resigned his position as Dean on August 21, 1924. Mr. Harold D. Alexander, of the Law Faculty, has been made Acting Dean.

Among the new members of the faculty are the following: Mr. Charles H. Andros, recently Assistant Examiner of Patents in the United States Patent Office, will give the courses on Patents, Trade-Marks, and Copyrights. Hon. Claude T. Dawes, Deputy Attorney General, a graduate of Cornell University and the Albany Law School, will give Insurance. Mr. Harry Cook, a graduate of Union University and the Albany Law School, will give the courses on Equity, Trusts, and Trustees. Hon. Isadore Bookstein, a graduate of the Albany Law School and recently County Judge of Albany County, will give the Practice Court work. Mr. Andrew V. Clements, Registrar, will give a course on Current Law; and Hon. William T. Byrne, State Senator for the Thirtieth Senatorial District, will conduct the course on Principles of Legal Argument and Oratory.



The College of Law of the University of Cincinnati (Cincinnati Law School) began its ninety-second year on September 22, 1924, with fifty-seven students enrolled. The graduating class this year consists of only seven students. This is due to the fact that this was the first class which entered the school under the two-year requirement.

Mr. Alfred B. Benedict resigned as Dean of the school on June 14, 1924, and the school is now being conducted by Robert C. Pugh as Acting Dean for this school year.

Mr. George L. Clark, formerly of the Universities of Stanford, Illinois, Michigan, and Missouri, has been appointed a full-time professor.

Mr. Milton Hurtig has been appointed a part-time professor to teach the subject of Agency in the second year. The faculty now consists of four full-time and eight part-time professors.

The new law school building (the Alphonso Taft Hall) is now in process of construction on the campus of the University, and will be dedicated on Commencement Day, June 13, 1925. It will be ready for occupancy at the beginning of the school year 1925-26.



The Law Department of the University of Louisville had made arrangements for a full-time man on the faculty this year, but through unfortunate circumstances he was unable to come. The new requirement of one year of college work for entrance takes effect this year.



The following has been taken from a report of the City College of Law and Finance,

St. Louis, Mo., giving information in regard to members of the faculty and their courses:

"Hon. Wm. H. Allen, Presiding Judge of the St. Louis Court of Appeals, who has been on a leave of absence, has returned and is again an active member of the faculty. Judge Allen is teaching Code and Common-Law Pleading during the current school year. He formerly held the chair in Constitutional Law and has for many years spoken at the Commencement Exercises.

"The City College of Law and Finance is now using Mr. Gill's edition of Tiedeman on Real Property. This last and fourth edition of Tiedeman was revised by Professor Gill, of this College, about a year ago, and is now being issued under Mr. Gill's name.

"It has just been announced that Hon. Hugo Grimm, Judge of the St. Louis Circuit Court, will teach the subject of Evidence this year. Judge Chas. B. Davis, of the United States District Court, is now teaching a special course on Federal Procedure. This course is being studied by many young attorneys who graduated last year with a view of preparing for the federal examinations. Hon. George Brand, of the Probate Court, has just begun a series of lectures on Probate Court work. The students always thoroughly enjoy Prof. Brand, and no man is better qualified for instruction in this work, as Prof. Brand has been Clerk of the Probate Court for many years. Prof. Wilbur Schwartz is taking the subject of Corporations in place of Professor Wheeler, who is on a leave of absence for the remainder of the year. Judge H. S. Caulfield, former Congressman and Judge of the St. Louis Court of Appeals, and more recently City Counselor, will, in addition to his regular class in Constitutional Law, give a special series of lectures to the members of the Post Graduate School. Prof. John B. Reno, former Secretary of the St. Louis University Law School, is instructor in the subject of Contracts."



The faculty of the Willamette University Law School remains unchanged, with the exception of James West, who has moved to Portland to engage in the practice of law. The requirement of one year of college work as an entrance requirement, effective October 1, 1923, caused a marked decrease last year in registration for the first year class. The first year class enrollment for this year is above the normal. All indications point to a very successful year.



Dean George T. Simpson, of the Minnesota College of Law, Minneapolis, Minn., is not giving his course on Constitutional Law this year, owing to the pressure of his law practice. Mr. Lars O. Rue, Associate Dean, has taken over the course and has given up his class in Private Corporations, which is being handled by Judge Willard L. Converse. Judge Converse has dropped his course on Equity, which will be taught this year by Mr. William J. Stevenson, Vice President and Trust Officer of the Wells-Dickey Trust Company, in conjunction with his regular course on Uses and Trusts.

Acting upon the suggestion of the Minnesota State Board of Law Examiners, the Min-

nesota College of Law has this year made no provision for accepting as special students those who are not graduates of accredited high schools, which has slightly reduced the enrollment as compared with last year.



The Chattanooga College of Law opened September 22, with an enrollment of eighty-three. There has been no change in the faculty, with the exception of the addition of G. A. Wood, Jr., as Judge of the Moot Court, in the place of Dan L. Fain, who has removed to St. Petersburg, Fla., where he has entered into the practice of law.

There have been several changes made in the assignments of subjects. The subject of Domestic Relations has been assigned to Mr. Frank Carden, Lecturer on Municipal Corporations, in place of C. W. Lusk, who is on leave of absence. Professor John S. Fletcher has taken the subject of Wills and Administration. R. B. Cook will teach the subject of Suretyship. W. B. Swaney, Dean, has taken the subject of Bills, Notes, and Checks, and T. T. Rankin, former Professor of the Law of Bailments and Carriers, will teach the subject of Private Corporations.



The Cumberland University Law School, Lebanon, Tenn., has a one-year law course. There are 58 students in the senior class, who will graduate next January, and 186 students in the junior class, who are due to graduate next June, making a total of 244.



The South Texas School of Law, located at Houston, Tex., opened its second year September 26 under very auspicious circumstances. Hon. G. H. Garwood, a member of the commission on clarifying and codifying the American Law, made the principal address to the student body, speaking on "The Lawyer and the Law."

The South Texas School of Law was organized last year, with Judge J. O. Hutcheson, Jr., of the Federal Court of the Southern District of Texas, as its Dean. Two new instructors have been added this year, making a force of six men on its faculty. They are Gavin Ulmer, A. B., LL. B., Columbia; Barksdale Stevens, A. B., J. D., Michigan; T. H. Cody, A. B., LL. B., Columbia; Richard T. Fleming, A. B., LL. B., Texas; Grover Rees, A. B., LL. B., Harvard; C. J. Landram, A. B., LL. B., Texas University.

A new course in Common-Law Actions has been substituted for the traditional course in Elementary Law. This is being taught by Mr. Landram with special application to Texas pleadings.

The school has also added a course in legal bibliography, making use of the material pre-

pared by the American Law Book Company. This is being handled by Mr. Fleming.

During the past year the school has received library donations of more than 700 volumes.



Trinity College Law School, Durham, N. C., reports only one change in the faculty. Mr. W. T. Towe, a graduate of Trinity College and of the Trinity College Law School, and who has done postgraduate work at the University of Chicago Law School, is now

giving the courses on Criminal Law and Torts.



Lincoln College of Law, Bakersfield, Cal., began its first year this fall, under the deanship of Mr. E. A. Klein. The entrance requirement is a high school diploma or its equivalent. The course covers three years. The curriculum of the first year consists of Elementary Law, Contracts, Torts, and Blackstone, and a special course on the use of law books.

The American Law School Review

An Intercollegiate Law Journal

S. E. Turner, Editor

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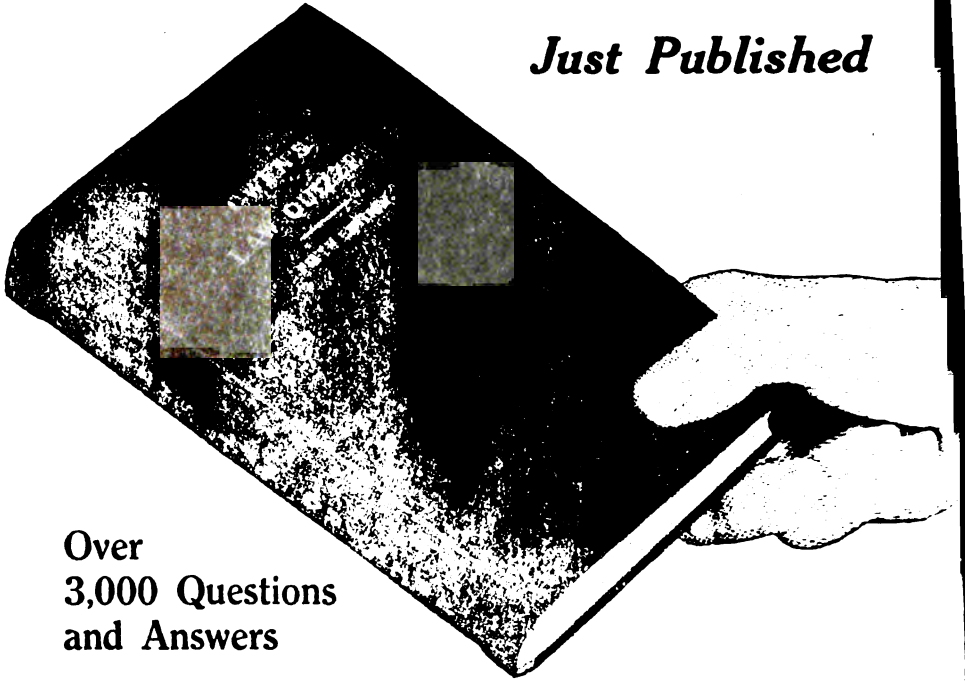
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No. 8

The Law Teaching Branch of the Profession

By WILLIAM DRAPER LEWIS

University of Pennsylvania Law School

[Address of the President of the Association of American Law Schools delivered at the Twenty-Second Annual Meeting in Chicago, December 29, 1924. The discussion following the President's address will be found on page 490 et seq. of this magazine.]

THE law teacher in the United States is now a member of a distinct branch of the legal profession.

For the existence of a profession, or a distinct branch of a profession, there must be a group of persons who adopt as a career the performance of a distinct service recognized as requiring a special preparation in which intellectual elements predominate. Therefore, by a law teacher I do not mean a lawyer who leaves his office one or more times a week to conduct law classes, or even the practitioner or judge who is said to "devote a great deal of his time to law school work." Such persons are no more members of the law teaching branch of the profession than the law professor who occasionally appears in the appellate courts to argue cases involving his specialty is a practicing lawyer.

The very existence and objects of this Association and the fact that nine-tenths of the representatives of the law schools present here today regard the career of a law teacher as a distinct career and are

devoting themselves to it as an exclusive occupation is conclusive proof that in the profession of law in the United States there is no longer merely the judge and the practitioner, but that there is the judge, the practitioner and the law school teacher.

This rise of this new branch of the profession is the most important institutional change which has taken place in the law during the past forty years. It has already produced profound changes in our ideas of an adequate preparation for the Bar. Then, too, the fact of the existence of a considerable body of persons who devote their lives to work, which requires specialized legal knowledge necessarily involving a somewhat different approach to questions of law and its improvement than that of the judge and the practitioner, is pregnant with the possibility of profound effects on the future development of all our legal thought.

The guarantee that this new branch of the profession is as permanent as

"permanent" things in this world of changing social forces can be, lies in the fact that the "law school" has reached its present position as a result of those conditions in our economic and social life which the whole trend of our development as a nation is constantly accentuating. The very growth of America in wealth and population, the increase in the complexity and importance of our domestic and foreign business transactions, the intensity of the life necessarily led by those who strive for leadership at the Bar, together with the increase in the number and weight of their responsibilities, and the way in which our law is expressed and developed by a Federal jurisdiction and forty-eight state jurisdictions, all combine to make it impossible for the great majority of the ever increasing number of those desiring to be trained in the law to receive a training at all sufficient in the lawyer's office, and for any to receive adequate training except in those schools which are manned by teachers who make the scientific examination and exposition of the law their life work.

The recent resolution of the American Bar Association to the effect that all who would come to the Bar should come from these schools merely tends to hasten that which is inevitable. Furthermore, if in America we have not lost our capacity to meet new conditions, it is also inevitable that the law schools will come under professional or public regulations to insure their maintenance of reasonable educational standards. And one of the most important of these standards is that the members of the faculty, with only unimportant exceptions, shall be devoting the great bulk of their time to special topics. Today the very great majority of those coming to the Bar pass through some kind of law school. We face an early tomorrow when all who would be lawyers will pass through schools which provide faculties composed entirely of members of the teaching branch of the profession; that is, of persons who have adopted the teaching of law as a career. Such teachers, not the able judge or the successful practitioner, are now in great part responsible, and soon will be exclusively responsible

for the training of those who administer and develop the law in our courts. For this reason alone the ability of the law school teacher of today, and still more the ability of the teacher of the immediate future, is a matter of national importance.

There is, however, another reason why our law school faculties should have men whose ability equals that of our leading judges and practitioners. Each practicing lawyer has duties to the court and duties to his clients, as the words of his oath of admission to practice usually attest. The judge has the official duties of his office. But in addition to these individual duties are what may be termed the public duties of the legal profession as a whole. These center around the duty of those learned in the law as a class to strive to improve the law and its administration in matters on which their peculiar training, knowledge and experience give them a right to speak.

Now the present condition of the law and the conditions which surround active practitioners and hard-worked judges make it impossible for either, either individually or collectively, to fulfill adequately these public duties to improve the law and its administration without the co-operation of the specialist. Except in rare instances, we cannot, among practicing lawyers or among our judges, find men who at once combine a thorough mastery of some one subject, the time, and the point of view which comes from an aloofness from the special interests of any one class or community. The combination, if it is to be found anywhere, is to be found among the members of our law school faculties. Yet men possessing such a combination of knowledge, time and point of view are a necessary element in the constructive improvement of the law and its administration.

Or, to put the matter in another way, if the lawyers of America are to play well their necessary part in the adjustment of a legal system of justice to the needs of life, a very considerable body of able legal specialists, with a high sense of the public duties of the legal profession, is as important as the existence of able practitioners and judges.

It is for these reasons that I wish to

call your attention this afternoon to some of the conditions, and especially to one condition, which must exist if men of real ability are to be drawn in sufficient numbers into the teaching branch of the profession. The numbers of this branch of the profession, as compared with the other branches, will naturally always be small, but no equal number of professional men will have greater responsibilities nor greater opportunity for good or evil.

The first condition necessary to attract men of big calibre to teach law is the assurance of a reasonable financial return. An individual of high type, visualizing a life of service, may voluntarily face narrow poverty, or even want, but such conditions or anything approaching them can hardly be made a basis for the upbuilding of a regular profession on the members of which will fall large and responsible duties. All this is self-evident and generally recognized. I shall, therefore, content myself with pointing out two things in respect to the proper interpretation of what is a "reasonable financial return."

The young man who enters upon the career of a law teacher is from the start and throughout his life relieved from the anxiety and strain which falls on those who are dependent on incoming business for their support. On the other hand, it is practically impossible for the law teacher to obtain large financial returns. We may be certain that the young man whose heart is set on "great riches" will not be happy as a law teacher, he had better not be a lawyer at all. Still, the prospective income for teaching law, to be reasonable from the point of view of a young man who feels that he has real ability and the possibility of a successful future in the practice of the law, must assure him that he and (usually later) his family will at the very least have the economic means to mingle socially with other educated persons in his community, and he must have the assurance of power to save.

Again, the prospect of a "reasonable financial return" should give him assurance that, if he reaches the highest places, reward in which some financial element is

involved will be his. Let me give you an application of this principle. No university policy could be more justly subject to censure than one which would make it impossible for a professor of law to do anything, except to compile case books or to write treatises, for which he would receive financial reward, or which would seek to cut down the salary of a professor receiving remuneration for outside work on the assumption that any outside work involving remuneration affects adversely the value of the services which he renders the law school. If the value of a teacher's instruction is actually lessened by outside work, if the outside work is actually interfering with work necessary to make him an acknowledged expert in his specialties, then the work itself, irrespective of the sum paid for it, should be anathema, if not, the increased earning power of the teacher should be regarded by the university authorities as not only fortunate for him, but as tending to remove a serious obstacle to the attraction of young men of ability to the law teaching profession. The Council of the American Law Institute and the authorities of several of our leading law schools, whose professors are working for the Institute, have to their credit that no one has suggested that a saving could be made by the Institute or by the law school, if both institutions were to combine to pay the professorial salary and no more to professors of law who are asked by the Institute to give time which might be spent in writing to a restatement of the law of the topics on which they are specialists.

The second condition necessary to attract men of ability in sufficient numbers to the teaching branch of the profession is opportunity for original research. The verb "to teach" may indicate one of many modes of action. A teacher may be a mere drudge—a waiter serving the same intellectual menu to successive classes—or he may be an explorer guiding his students each year to new as well as to old discoveries, many his own. We all know from personal experience what the student receives from each of these two types of teachers, and the difference in what he receives. Our law schools, to

function efficiently, must be manned by explorers, not drudges. The profession, to meet properly its public duty to improve the law needs scholars who not only instruct in fundamental legal problems, but who seek for them and wrestle with them. A teaching schedule that makes the professorial chair a bench for the accommodation of many topics is not a condition compatible with the occupant carrying on explorations. He has so many fields to cover that there is not time to do more than show his students the things in them discovered by others. An opportunity for original research and constructive thought does not exist. Such a life may satisfy the stupid man or the intellectual trifler, but it has no attraction for the young man who would do a man's work in the world.

As in the case of the condition first mentioned for attraction of the right sort of men to the teaching branch of the legal profession, there is general recognition of the second condition. Of course, conditions in respect to remuneration, hours and the amount and variety of classroom work required of the professor are not ideal in all the law schools, even in all the schools belonging to this Association. Perhaps an all-wise Providence has perceived that man; and even law school professors, as well as dogs, may be really benefited by a few fleas. But the recognition of a necessity that a condition should exist is necessary before we may even begin to hope that it will exist. It can be said, however, that in several law schools belonging to this Association the professors do have reasonable remuneration and are given an opportunity to make themselves masters of their respective subjects. That one is able to make such a statement is the highest praise that can be given those in responsible control of the universities where these conditions exist. The rise in prices of the past decade, coupled with the fixity of returns from trust funds, have not made the task of boards of directors of educational institutions an easy one to travel.

The third condition necessary to attract men of the right kind as teachers of law (and this is the condition which I wish especially to call to your attention), in

contrast with the other two that I have mentioned, has not received general recognition. In fact, it can be said to have been but recently perceived and dimly by the representatives of the schools attending the meetings of this Association. The condition is simply the prospect of an opportunity to come into legal working contact with those in other branches of the profession.

Put yourselves in the place of a young man coming to the study of law. He usually does not dislike study, but is he looking forward to a life of cloistered research? Is it not true that the profession of the law makes its appeal to the young man who wants to carry on his life work, not only in contact, but in "contest contact" with others? Law is one of the social sciences. Its rules are applied to the relations of men in our work-a-day world. The practicing lawyer and the judge are engaged in "helping turn the wheels," they are performing services which meet man's instant needs, and, furthermore, they are performing these services by co-operating or contesting with other members of the legal profession. It is this kind of life that the law student visualizes. The picture has attraction for him. It is his reason for deciding that he wants to be a lawyer. If we are to turn from practice to law teaching a sufficient number of young men of ability to carry on efficiently the work of the teaching branch of the profession, the life of the law teacher must contain elements not wholly dissimilar to the co-operative and contestual elements in the life of the practitioner or the judge.

I am convinced that it is possible to do this. I am aware of the fact that the law schools whose faculties were composed of prominent practitioners and judges, who took a few hours from occupations, which to them were more absorbing, to read law lectures to future members of the Bar, were so obviously inefficient that the opinion that a law school professor should have no contacts with the court or other work of the practitioner has been widely accepted as axiomatic. And it is axiomatic that a young man entering the teaching branch of our profession should drop all thought of clients and should in the

beginning refrain from practice in any form. His sole object should be to make himself a master of his subjects. He does not become a specialist in Torts or Contracts or any other topic of the law by being appointed a member of a law school faculty, but rather by laborious research and much close analytical reasoning. But when as a law professor he has attained a real command of his subject, then the fact that the practitioner may seek his advice and that he may have opportunity to appear in appellate courts is desirable from many and probably from every point of view. The appearance in the argument of a case of a specialist in any branch of the law under consideration at the moment is no mean aid to courts. The greater the knowledge of counsel of the legal issues involved, the more helpful is the argument, and occasional employment in appellate court work is beneficial to the teacher. The necessity of clear and precise articulation of issues and arguments to hold the attention of men more mature in the ways of the law than are students must obviously have a reflex effect on the effectiveness and value of the quality of a man's teaching. Quite apart from the incidental monetary reward, the recognition by the practicing bar of the practical value of his services is a satisfaction which can be balanced against the possible sacrifice made by the law teacher in abstaining from the active practice of the law.

However, the most interesting and the most socially helpful way in which the law school professor can be brought into professional working contact with the leading members of the other branches of the profession is in that work through which lawyers fulfill the public duties of their profession. These duties fall not on individual lawyers, but on the whole profession, as an association of those learned in the law, to improve the legal system of justice by bringing it into closer adjustment with the needs of life. As I have already pointed out, it cannot be performed without the existence of a very considerable body of able legal specialists. You will note that I said that the characteristics and conditions essential to fundamental specialization are found with any

certainly only among the faculties of our leading law schools, but you will note also that I did not say that in the law school faculties would be found all that is essential for the improvement of the law.

True, it is that the profession cannot perform its public duties without the co-operation of highly trained experts in different branches of the law. This the modern law school alone can supply in America today. I have already emphasized the law is a social science. The expert is necessary to its improvement, but the training and peculiar experiences of the judge and of the practicing lawyer are equally necessary. Indeed, the whole matter comes to this: A close professional working contact between the leading judges, law professors and practitioners is essential if the legal profession is to fulfill its public duties and play its proper part in the improvement of our system of justice.

It is indeed most fortunate for our schools that we have this condition of interdependence of the different branches of the profession. The practitioner and the judge must secure his training from the schools; the schools, to be adequate for their work, must be manned by men of high ability who have deliberately chosen the career of the teacher of law rather than that of the practitioner or judge; to maintain such schools, leaders of the teaching profession must have an opportunity to come into working contact with their professional brethren in practice and on the bench; finally, this opportunity is itself a necessity if the profession is to perform its public duties.

The best hope of the future for the teaching branch of the legal profession is that the necessity for its existence does not rest alone on the needs of future generations of law students, but that it also rests on the need for the profession to perform its public duties as promoters of the improvement of justice.

I have said that it is possible to bring the law school teacher who has attained the position of an acknowledged specialist in one or more topics of the law into professional working contact with the leaders of the bench and bar and thus to fulfill the third condition which must exist if

men of high ability are to be attracted in sufficient numbers to essay the career of the law teacher. The use of the term "possible" contains at least an intimation that the condition desired can, but does not now, exist. This implication was intentional because more than an approach to what is not only possible, but, under wise direction, more than probable within the lifetime of many here, has not been attained.

In speaking of the future, I do not desire to overlook the progress which has been made in the last twenty-five years. A few of you here are old enough to remember that in 1895, the members of the then recently organized Commission on Uniform State Laws, who were drafting the Uniform Negotiable Instruments Act, not only made the selection of the draftsman outside the ranks of the teachers of law, but the Commissioners did not regard it as important that such a man as the late Dean Ames of the Harvard Law School, who had taught the subject for many years, need be consulted before its official publication. Such a thing would be impossible today. The draftsmen of all the other commercial acts put out by the Commission have been law school men, while leading teachers of law have for many years acted with representative judges and lawyers as Commissioners from their respective states.

What is true of this important nationwide movement to improve the law is also true in almost every state. There is ever increasing recognition of the desirability of securing the co-operation of bar associations, courts and law teachers whenever a statute or code dealing with substantive or procedural law is to be drafted; the teachers supply the specialized knowledge necessary to the production of the preliminary draft and the judges and practitioners the necessary practical criticism and suggestion for its improvement.

An organization which has done most useful work in laying the foundations for the improvement of the organization of our state courts, the American Judicature Society, has carried on its work by the co-operation of law school professors, judges and practitioners.

Finally, we have the recently formed American Law Institute, an Association founded by all three branches of the profession to act as a permanent organization for the improvement of the law and now engaged in the restatement of the law—a work which may be shortly described as the clarification of our common law with a view to the greater certainty of its application. A person called the "Reporter" is primarily responsible for the production of successive drafts of the restatement of the law of subjects such as agency, contracts, torts or conflict of laws. He must almost of necessity be a law school man, for outside of law faculties men rarely arrive by years of work at a position of acknowledged authority on fundamental topics, but we find among the Advisers who sit around a table with the Reporter and discuss the draft prepared by him section by section, not only other law school men in the same specialty, but judges and lawyers of high standing; while the Council and general membership of the Institute through which a draft of any part of the Restatement must pass before final official publication, are bodies in which each branch of the profession is represented by its leading men from different parts of the country.

Thus, not merely by such learned treatises as Wigmore on Evidence, Mechem on Agency or Williston on Contracts, authorities in any court, not merely by the constantly increasing use by the courts of the legal articles in our law magazines written by professors of law, but by the opportunity to plan an important part in the improvement of legal justice, by work done in personal contact with the foremost men from other branches of the profession is the career of the law school teacher acquiring elements of attractiveness for the highest type of able men who come to our law schools. All this has been the result of the development of the past twenty-five years. The legal working contacts established between leading judges and practitioners on the one hand, and leading law school men on the other, have for the most part been along lines of co-operation for the improvement of the law. This indicates the direction along which further progress can be made.

Therefore, I hope we may have this afternoon some discussion on two matters:

1. What are some other directions in which the special knowledge of the law teacher may be made available for the improvement of the law through co-operation with the other branches of the profession?

2. Would it help various enterprises now going forward for the improvement of the law, or would it stimulate and wisely aid to direct further co-operation between the teaching branch of the profession and the lawyer and judge to establish a permanent center, which would be a meeting place for those individuals and associations interested in the advance of our legal knowledge or in the direct improvement of law, and to some extent be a place in which work to these ends could be carried on?

I shall leave the introduction of the discussion on my first question to the distinguished leader of the American Bar and President of the American Law Institute, who is to follow me, concluding my own remarks with a few words by way of introduction to the discussion of the second question.

The second question which I proposed for your consideration is one that has been called to your attention more or less for some time in discussions about a "juristic center." I confess I dislike the term "juristic center." Perhaps my dislike is due to my once having received a bronze medal for being a jurist. I have never understood why I was given that title or what the other bemedalled jurists and I were supposed to be or do. I shall, therefore, speak here of a legal center.

Unless I misunderstand what I have heard and read concerning the prior discussions of this matter, it has been approached as a project intended primarily to stimulate legal research, and to afford an opportunity for an exchange of ideas between law teachers at round table conferences, such as we have at this Annual Meeting, extended over a considerable period.

In short, a legal center has been visualized as an institution created for and conducted exclusively by the law school profession. On the other hand, the way

in which I have put the question assumes that the main thought, not necessarily the sole object, of the center is to increase the ability of the legal profession to fulfill its public duty to improve the law and its administration, and it further assumes that the co-operation and professional working contact between the leading professors of law and the foremost men on the bench and in practice is essential to this end. I hope some discussion may be had this afternoon as to whether I am right in asking these assumptions.

The object of the center will necessarily affect the answers to questions of detail concerning it. But assuming that the object should be the one indicated in the form of my second question, there are several matters connected with its organization and establishment which should be carefully considered before any attempt is made to realize the idea. Let me suggest some of these questions:

First, there are those questions which affect the physical characteristics of a legal center:

(a) Should it afford accommodations for the meetings of legal associations; and, if so, what associations?

(b) Should it provide accommodations for the executive offices of legal associations; and, if so, what associations?

(c) Should it supply library and other facilities for the prosecution of the legal work of any existing learned legal associations; and, if so, what associations?

(d) Should it supply facilities for the carrying on of a graduate school?

Second, there are those questions which affect the location:

(a) Entirely apart from any organic connection with an existing law school, should it be established so as to identify it physically with an existing law school?

(b) Should it be established at the national capital?

(c) Should it be established in any of the large cities?

(d) Should it be established in a suburban or country location?

Third, there are those questions which affect the promotion and the organization:

(a) Should it be promoted primarily

by this Association, or by The American Law Institute, or by The American Bar Association?

(b) Should it be promoted by any possible combination of these associations, or by their union with other associations to create or to suggest the creation of a new organization to control the center?

(c) Should the organization controlling the center carry on all the work at the center, or should the center be primarily a place where existing legal organizations could carry on many, if not all, of their activities?

I have no desire to attempt this afternoon to make any answer to these questions. In my own thinking on the desirability and the possibility of the establishment of what I have termed a "legal center," I have not advanced beyond the point of interrogation. I have brought up the subject here because I have a feeling that in the conception of a legal center as a co-ordinating factor in legal professional activity to improve the law and its administration—an outward and visible sign of a real co-operation between the schools, the bench and the bar to promote justice—there is the germ of an idea which may develop into a clear picture of something which will be of great value. However this may be, I am certain that whatever the place, the proper character and the organization of such a center, its success is dependent on the extent and the character of American legal scholarship.

The future of American legal scholarship, its extent and character, is in the hands of those who direct the law schools belonging to this Association. If our law schools are content to teach only those subjects which are immediately useful to the practitioner in the first years of his practice, and to confine their researches in such subjects to the authorities the student can cite in court, then no matter how thorough the teaching within these limits, the American legal scholarship will not be equal to the task of helping to adapt law to the needs of life. In a world forced by man's remarkable progress in the effective practical application of new scientific discoveries, to make constant international and internal industrial and

social re-adjustment, we need law schools controlled by men whose vision is wider than the rather narrow limits of the present curriculums. It is of course time that the law school that does not provide the law student who seeks to become a practicing lawyer with the technical knowledge and training he needs will fail as it deserves to fail. But the day when a law school is regarded as a place where this is done and nothing more should be brought to a close. To develop a good training school of legal technique was the task of the generation of law professors now passed or nearing the retirement age. Twenty-eight years ago I became Dean of one of the oldest schools in the country. It did not have an organization or a place in which law or anything else could be adequately taught. My task and the task of all other Deans of that day was to build up a faculty capable of training law students in the fundamental principles of common law and the right methods of legal reasoning. The law school of tomorrow should be an institution which, while in no wise lessening the excellence of the preparation which it affords to the future practitioner, will, as a matter of course, also be an institution in which in addition to a knowledge of our common and statute law, will be given courses in all other subjects on which a proper adjustment of law to modern life must rest—such subjects, for instance, as Comparative Law, International Law, Improvement in Procedural Law, Penology and recent development in Administrative Law; it must be an institution, too, which will not only carry on researches in legal history, but investigations as to the practical operation of existing law and administration. Is this view of the American law school hopelessly beyond the possibility of attainment by the great majority of schools, members of this Association? I do not think so. I have seen too much progress in legal education in the last thirty years not to believe in still further progress. There is more than one school in the Association which in a few years can, and I believe will, become the home for the development of creative legal scholarship along lines not now taught in any school. The great law

schools of today will become the far greater and broader schools of law of tomorrow. We have no reason to be pessimis-

tic about the future. The teaching branch of the legal profession is just entering on its kingdom.

The Restatement of International Law

By Hon. GEORGE W. WICKERSHAM

[Address delivered at the Twenty-Second Annual Meeting of the Association of American Law Schools, Chicago, December 29, 1924. The discussion following this address will be found on page 490 et seq. of this magazine.]

DR. LEWIS, in his interesting and suggestive address, has touched upon the principal function of the American university law school in demonstrating the value of an educated bar. The multiplication of problems of modern civilization has presented new and increasing demands upon legal scholarship and opened a fuller and richer life to those who possess it. When one reflects upon the invaluable assistance given by law school professors, in the work of the Conferences on Uniform State Laws, in the cause of improved educational requirements of candidates for admission to the bar, and in the recent scientific study of and report upon the causes of uncertainty in the law and its unsatisfactory administration directed by this Association, which resulted in the formation of the American Law Institute for the purpose of undertaking the Herculean labor of restating the common law of America, it will be realized that the law schools, at least those represented in this Association, have ceased to be mere places for fitting young people to pass the required examinations for admission to the bar.

On another occasion, referring to this subject, I said: "The law school no longer can be content to be a mere training school for attorneys. It has a far greater mission as the laboratory of sound thinking and the center for the dissemination of correct legal principles. Nay, more! As the traditional development of law through the decisions of courts increasingly falls behind the problems cre-

ated by the rapid processes of industry, trade and commerce as affected by modern discovery and invention, the law schools must assume the function of the continental European universities as the conservators and expositors of the law. * * *

If we consider the work of the professors of law in the fields mentioned and also in the direction of improving the organization of and the procedure in our courts of law, and the scholarly labor of preparing the restatements of the substantive common law under the auspices of the American Law Institute performed by reporters and critics drawn from the faculties of a number of the leading law schools, the practical value of modern legal scholarship will become apparent. Aside from the writing of commentaries on the law and text books, and giving instruction to young law students, until recently the garnered knowledge and wisdom of professors of law has had no very definite outlet, nor has their office been held in especially high regard by the public, professional or lay. Today the world offers them increasingly new fields of useful effort.

The development of the analytical faculties of teachers and students, following upon the introduction and spread of the Langdell system of instruction in the law, broke up the placid convention of the law instructor's life by compelling original research and constructive

¹ Address at Centenary of Yale University, June 16, 1924.

thought. The field of activity of the legal scholar broadened as the problems of modern economic life outran the capacity of judicial process to solve. Today the student of law finds manifold problems appealing to him for aid in solution, and a fuller, richer, more active intellectual life opening before him.

The governing bodies of our universities too are beginning to realize how much greater is their function than formerly was conceived and how much credit is reflected upon them by the labors of their faculties in fields outside of mere curricula, and yet in directions which have a material influence upon the betterment of the law, the improvement of legal institutions and the solution of economic and social problems, all of which tend to the accomplishment of the supreme concern of mankind—the establishment and the maintenance of justice.

The most recent enterprise of high importance, in aid of which large drafts have been made upon the law teaching profession of America, is that conducted by the American Law Institute. During the last two years no fewer than twenty-six professors of law, drawn from eleven university law schools, located in different parts of the United States, have been employed in the work of the Institute for a greater or less time. All of this work, however, has had to do with the domestic law of America.

I should like now to invite your attention to a subject which affects a wider domain than mere domestic issues, and yet is not, I think, foreign to the purposes of your organization, and in which, as it seems to me, many of your faculties are qualified to render public service of great value to all humanity. I refer to the field of international law. What is known as international law, in the modern sense, largely dates from the time of Hugo Grotius. Yet many rules of that law are the product of ancient usage among nations, such as, for example, the rule recognized by the Supreme Court of the United States in cases which arose during our war with Spain,² that coast fishing vessels, pursuing their vocation of

catching and bringing in fresh fish, are exempt with their cargoes and crews from capture as prize of war, a rule which the Court traced back to orders issued by King Henry the Fourth of England, in 1403 and 1406, and which, through increasing recognition, with occasional setbacks, has become finally established as law in the United States and generally throughout the civilized world.

I am aware that by your Articles of Association the object of your organization is defined to be "the improvement of legal education in America."

But the law of nations, defined by Blackstone as "a system of rules, deducible by natural reason, and established by universal consent among the civilized inhabitants of the world, * * *" founded upon the principle "that different nations ought in time of peace to do one another all the good they can, and, in time of war, as little harm as possible, without prejudice to their own real interests," was adopted in England by the common law³ and after the American Revolution was recognized as a part of our municipal law.⁴

The Supreme Court of the United States in a notable case gave full recognition to this great body of law, saying:

"International law, in its widest and most comprehensive sense—including not only questions of right between nations, governed by what has been appropriately called the law of nations, but also questions arising under what is usually called private international law, or the conflict of laws, and concerning the rights of persons within the territory and domain of one nation, by reason of acts, private or public, done within the dominion of another nation—is part of our law and must be ascertained and administered by the courts of justice as often as such questions are presented in litigation between man and man, duly submitted to their determination."⁵

The ascertainment and classification of this great body of our law is then clearly within the scope of your purpose to im-

² IV Bl. Com. 66, 67.

³ *Republica v. Keating*, 1 Dall. 110; *Thirty Hds. of Sugar v. Boyle*, 9 Cr. 181.

⁴ *Hilton v. Guyot*, 159 U. S. 113, 163—per Gray, J.

⁵ *The Paquete Habana*, 175 U. S. 677, 20 S. Ct. 290, 44 L. Ed. 320.

prove legal education in America. Not merely in the Law Schools is such effort necessary, but throughout our nation, as well as in others, men must be retaught the existence and the value of that international law which was defied, outraged and trampled under foot by the Teuton powers when they launched their attack upon Belgium, France and Russia in 1914 and during the entire period of the World War which ensued.

The two Hague Conferences of 1899 and 1907 accomplished much for international law. Dr. James Brown Scott thus summarizes their work in this field:

"The First Conference raised good offices and mediation to the dignity of an institution; provided for the ascertainment of disputed facts likely to produce serious consequences by an international commission of inquiry; set the seal of its approval upon arbitration; devised machinery by which a temporary tribunal might be chosen from a permanent panel of judges, and adopted a code of procedure for the trial and determination of cases submitted to the tribunal. The First Conference also codified the laws and customs of warfare on land, extended to maritime warfare the beneficent provisions of the Geneva Convention, and, if it did not provide for the limitation of armaments, it at least discussed seriously and profoundly the question.

"The Second Conference revised each of these conventions, thus rendering them more worthy of approval; it accepted with unanimity the principle of compulsory arbitration and, in a concrete case, namely the collection of contract debts, it restricted the use of force and bound the nations to arbitration. It laid the foundations of a court of Arbitral Justice, to be composed of judges, acting under a sense of judicial responsibility, in which the various systems of jurisprudence and the various languages shall be adequately represented; it actually created an International Court of Prize in which the validity of an alleged capture shall be determined by an international tribunal composed of competent, trained judges, in which the belligerents shall be represented, but in which the neutrals shall decide the question at issue. The

Conference further codified the laws and customs of war and by prescribing belligerent duties and recognizing neutral rights as well as duties extended the empire of law."⁶

Before its adjournment, the Second Peace Conference recommended to the Powers the assembly of a Third Peace Conference, which might be held at a period corresponding to that which had elapsed since the preceding conference, at a date to be fixed by common agreement between the powers, called their attention to the necessity of preparing the program of this Conference a sufficient time in advance, and for this purpose recommended that some two years before the date of such meeting a preparation committee be charged by the governments with the task of collecting the various proposals to be submitted to the Conference, "of ascertaining what subjects are ripe for embodiment in an international regulation," and of preparing a program to be decided upon by the governments a sufficient time in advance of the meeting to enable it to be carefully examined by those interested.⁷

The Prize Court thus referred to was not erected. But an International Conference of ten maritime powers, called by the British Government, met at London, December 8, 1908, to February 26, 1909, and adopted a Declaration which was intended to supply the law to be administered by the Prize Court, but the Declaration was not ratified by the British Parliament. This is the famous Declaration of London, of which so much was heard during the Great War. On June 10, 1912, President Taft appointed an advisory Committee to consider proposals for a program for the Third Hague Conference. This Committee made an elaborate report. The other powers not having moved in the matter, on January 31, 1914, the Secretary of State, Mr. Bryan, addressed a communication to the various powers, proposing that the duties of the preparatory committee should be committed to the Administrative Council of

⁶ The Hague Peace Conferences of 1899 and 1907, James Brown Scott, vol. II, pp. 737, 738.

⁷ Scott, vol. II, p. 735.

the Permanent Court of Arbitration at The Hague.⁸

The outbreak of the War in Europe prevented any further action in this direction.

It is familiar history that all principles and agreements of international law were violated by Germany during the World War.

"More important still," Mr. Root has pointed out, "is a fact which threatens the foundation of all international law. The doctrine of *Kriegsraison* has not been destroyed. It was asserted by Bethmann-Hollweg at the beginning of the War, when he sought to justify the plain and acknowledged violation of international law in the invasion of Belgium upon the ground of military necessity." Of course, as Mr. Root truly says, "if that doctrine is to be maintained, there is no more international law, for the doctrine cannot be confined to the laws specifically relating to war on land and sea."⁹

After the Armistice, the victorious nations incorporated in the Peace Treaty a Constitution or Covenant of a League of Nations, "in order to promote international co-operation and to achieve international peace and security," by methods recited, including "the firm establishment of the understandings of international law as the actual rule of conduct among governments," and "by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another."

The Covenant provided among other things that the Council of the League should formulate and submit to its members for adoption plans for the establishment of a Permanent Court of International Justice, as distinguished from a Board of Arbitration, for the purpose of determining through the operation of judicial process, such controversies between nations as should be susceptible of such determination. In March, 1920, the Council appointed an Advisory Committee of eminent Jurists, ten in number, among whom was the Hon. Elihu Root,

to prepare plans for the establishment of such a court. This Advisory Committee, after several weeks' deliberation, reported a proposed Protocol and Statute for the erection of such a court. In connection with the plans for the Court, the Committee further presented an unanimous recommendation, which, after reciting that they were convinced, "that the security of states and the well being of peoples urgently require the extension of the empire of law and the development of all international agencies for the administration of justice," recommended that a new conference of the nations, in continuation of the first two conferences at The Hague, be held as soon as practicable, for the following purposes:

1. "To restate the established rules of international law, especially and in the first instance in the fields affected by the events of the recent war.

2. "To formulate and agree upon the amendments and additions, if any, to the rules of international law shown to be necessary or useful by the events of the war and the changes in the conditions of international life and intercourse which have followed the war.

3. "To endeavor to reconcile divergent views and to secure general agreement upon the rules which have been in dispute heretofore.

4. "To consider the subjects not now adequately regulated by international law or as to which the interests of international law require that rules of law shall be declared and accepted."

The Advisory Committee further recommended that the Institute of International Law, the American Institute of International Law, the Union Juridique Internationale, the International Law Association and the Iberian Institute of Comparative Law, be invited to prepare, with such conference or collaboration intersese, as they might deem useful, projects for the work of the conference, to be submitted beforehand to the several governments and laid before the conference for its consideration and such action as it might find suitable.

These recommendations were considered by the Third Assembly of the League of Nations. They did not im-

⁸ Am. Journ. Int. L. pp. 335, 336.

⁹ International Law after the War in Men and Policies, E. Root, p. 426.

mediately meet with a favorable reception. Lord Robert Cecil himself considered that the time was not ripe for the work of such a conference. The subject was perhaps badly misinterpreted as a recommendation for the codification of international law. Subsequent discussion also has run along the lines of debating the feasibility or the expediency of codifying international law. Professor Manley O. Hudson addressed the American Branch of the International Law Association at its Annual Meeting in January, 1923, on the subject, "The Codification of International Law Through the League of Nations." Referring to the fact that the International Law Association was first organized as an association for the reform and codification of the law of nations, and to the work of David Dudley Field, one of those most active in the organization of that Association, who, having prepared a code of procedure and one of substantive law for the State of New York, naturally came to think that international law, like municipal law, was easily susceptible of ready codification, and who in 1872 published an outline of an international code, Professor Hudson pointed out that many of the subjects dealt with by Mr. Field in his proposed code, formulated a proposed law upon topics which have so developed since his day as to have been made the subject of separate international agreements or treaties, while a vast number of topics now commonplace to us found no place whatever in Mr. Field's code.

At the Annual Meeting of the American Branch of the International Law Association in January, 1922, Mr. Arthur K. Kuhn referred to the fact that those who are engaged in a serious study of international law in this country today are limited by one condition, namely, that they are discussing these problems principally with each other, are analyzing doctrines of international law mainly as they are handed to us from our own courts or executive departments, and the subjects are being discussed in national conferences solely from the American point of view, whereas international law exists only in so far as it is nationally and internationally recognized—particularly

the latter. He added: "Unless we can meet fully workers and colleagues in other countries who are likewise imbued with the same desire to promote international peace and good will and to lay the foundations for profitable and peaceful international trade and commerce, in other words, to meet one another in conferences in which all nations are at least unofficially represented, our work is incomplete."

At that same meeting, Mr. Kuhn referred to the great amount of attention which is given to the broad field of private international law in South American countries, and to the fact that the United States had sent a delegation to the International Commission of Jurists which met at Rio de Janeiro in 1912, to consider, among other questions, arrangements for solving the conflicts of private law and the execution of private money judgments and agreements, establishing international bases for trademarks and copyrights and industrial property generally. And yet, he added:

"There is not a single organization in this country, of which I am aware, that has given them particular attention, or has laid the groundwork for progress in their solution by international agreement."

The work proposed by the Conference referred to, like the projected Third Hague Conference, was interrupted by the World War. At the Fifth International Conference of American States, however, held at Santiago, Chili, March 25-May 3, 1923, the Conference reaffirmed its faith in the codification of public and private international law, and it was agreed to recommend to the Governments concerned the reconstitution of a Commission of Jurists, requesting each Government to appoint two delegates and that the Commission convene at Rio de Janeiro in 1925. In reporting these proceedings to the Secretary of State, the American delegates to the Santiago Conference referred to the difficulties in the codification of private international law presented by the fact that in some American states the principle of domicile is applied in the determination of the civil status of persons, while in others the principle of nationality obtains.

Dr. James Brown Scott, in a learned and interesting address delivered in Spanish at the University of Havana in February, 1924, reproduced in English in the *American Journal of International Law* for April, 1924, expresses his confidence in the feasibility of the co-operation of the American republics in the codification of the rules and usages which are not only a law to them, but to every civilized state of the world, and adds that nothing could be more appropriate in a code of international law for the American states, than the declaration of the rights and duties of nations adopted at the first session of the American Institute of International Law in 1916, by the jurists representing the American Republics, quoted in an address delivered by Secretary Hughes on November 30, 1923, in Philadelphia, and set forth in Dr. Scott's Havana oration. Undoubtedly this declaration contains material interesting for consideration in any conference in the codification of international law. But Mr. Henry G. Crocker, of the Carnegie Endowment for International Peace, writing in the January, 1924, number of the *American Journal of International Law*, has illustrated in very challenging fashion some of the difficulties in the way of codifying international law. The task, he says, "is so vast, the subject thus named so uncertain in nature and in limits, language so imperfect and misleading, and human reason so puny, that a person who addresses himself to the business, with the intention of elaborating concrete expressions of the law, finds himself with no solid footing to start from, no certain direction to take and no clear conviction how best to work." He then proceeds by the discussion of one topic only—"The Treaty"—to demonstrate some of these difficulties. Anyone who has followed the labors of the men engaged in the work of the American Law Institute in preparing restatements of a few of the topics embraced in such fundamental subjects of the common law as Contracts, Conflict of Laws, Torts and Agency, will realize some of the difficulties involved in the comprehensive codification of any kind of law, municipal or international, including that which the

States in the Pan-American Conference are about to embark upon.

Mr. Root, in his Presidential Address at the Annual Meeting of the American Society of International Law, held in April, 1911, clearly defined the difference between the task of codifying municipal and international law. "The substantial work of international codification," he said, "is not merely to state rules, but to secure agreement as to what the rules are, by the nations whose usage must confirm them. Except as a means to this end, any codification of international law can be of little value, except as a topical index and guide to the student. As a means to this end, to be properly used and carried out, it is of great importance to press forward the work of codifying international law." It is interesting to note that the recommendations of the Commission of Jurists who drafted the Protocol and Statute of the Permanent Court, which are understood to have been written by Mr. Root, say nothing about "codification." They recommend "re-statement" of established rules; formulation and agreement upon amendments to existing rules; reconciliation of divergent views in order to secure general agreement upon rules heretofore in dispute and consideration of subjects not now adequately regulated by international law, or as to which the interests of such law require that rules of law be declared and accepted.

No one nation and no group of nations can make international law. Great jurists like Field, Buntschli, Duplessix or Fiore may write ideal codes, but international law can only be created by the agreement of all the civilized nations, expressed by common immemorial usage or by compacts or treaties.

As already stated, the Third Assembly of the League of Nations, to which was submitted the report of the Committee of Jurists who prepared the Protocol and Statute of the Permanent Court of International Justice, took no action upon the further recommendations of the Commission of Jurists respecting the general subject of international law.

Since the formation of the League in 1920, many international agreements,

conventions and treaties have been negotiated between members of the League, and between members of the League and non-member States, frequently including the United States, notably the treaties resulting from the Naval Limitation Conference held in Washington in 1922. All of these treaties have been registered with the Secretariat of the League of Nations at Geneva. They now are upwards of 700 in number. Together they constitute a great body of international law, which must be considered in connection with any plan of dealing comprehensively with the law of nations.

At the meeting of the assembly of the League held in Geneva in September, 1924, not only was the Protocol adopted providing for compulsory arbitration, security and disarmament, but the recommendations made by the Committee of Jurists in reporting the plan for the Permanent Court were again considered, and the following resolutions were unanimously adopted by the assembly:

"The Assembly:

"Considering that the experience of five years has demonstrated the valuable services which the League of Nations can render towards rapidly meeting the legislative needs of international relations, and recalling particularly the important conventions already drawn up with respect to communications and transit, the simplification of Customs formalities, the recognition of arbitration clauses in commercial contracts, international labour legislation, the suppression of the traffic in women and children, the protection of minorities, as well as the recent resolutions concerning legal assistance for the poor;

"Desirous of increasing the contribution of the League of Nations to the progressive codification of international law:

"Requests the Council:

"To convene a committee of experts, not merely possessing individually the required qualifications, but also, as a body, representing the main forms of civilization and the principal legal systems of the world. This committee, after eventually consulting the most authoritative organizations which have devoted

themselves to the study of international law, and without trespassing in any way upon the official initiative which may have been taken by particular states, shall have the duty:

"(1) To prepare a provisional list of the subjects of international law the regulation of which by international agreement would seem to be most desirable and reliable at the present moment; and,

"(2) After communication of the list by the Secretariat to the Governments of States, whether members of the League or not, for their opinion, to examine the replies received; and

"(3) To report to the Council on the questions which are sufficiently ripe and on the procedure which might be followed with a view to preparing eventually for conferences for their solution."

In presenting these resolutions, Mr. Rolin of Belgium referred to the progress made at the successive Pan-American Conferences, especially at the one held in Santiago, where a Committee of Jurists was asked to draw up a code of international public law and a code of international private law for the next Congress of the Pan-American Union, and stated that although this achievement might be possible at the stage which law and scholarship had reached in America, "where traditions, after all, are comparatively recent and are not widely dissimilar," the majority of European Jurists would consider it still extremely distant and problematical, and they could not seriously undertake for the whole world the codification of international public and private law which had been decided upon by American Jurists. They therefore recommended that the work be carried out step by step, and that international conferences should only be called to deal with particular questions of public or private international law, if these questions seem sufficiently urgent in themselves to demand immediate consideration, and at the same time appear to have reached such a stage of development, either in legal knowledge or in special interested agreements, as to render international solution practical.

This program is essentially that recommended by the Second Hague Peace

Conference to be undertaken by the Committee to be charged with the work of preparing for the Third Conference, namely, the duty "of ascertaining what subjects are ripe for embodiment in an international regulation." The task imposed upon the Committee by the resolutions of the League Assembly would seem to be appropriate and necessary as a preparation for the restatement, formulation of amendments and consideration of subject matter not yet adequately regulated by international law recommended by the Commission of Jurists who prepared the Statute of the Permanent Court.

In preparing the provisional list of subjects of international law, the regulation of which by international agreement would seem to be most desirable and realizable at the present moment, the Commission, it seems to me, must first consider what subjects of international importance were regulated by recognized rules of international law before the war and which were affected by the war; the effect of the war upon those rules, whether they may be restored to vigor by restatements accepted by the nations, or to what extent they should be amended or supplemented. The Committee must also consider what other subjects of international law should be regulated by international agreement and to what extent.

Again, following the precedent regarding the Third Hague Conference, the Committee is required to recommend to the Council the procedure to be followed, with a view to preparing eventually for conferences regarding problems recommended for solution.

It will be observed that this Committee constituted by the Assembly resolution is instructed to consult "the most authoritative organizations which have devoted themselves to the study of international law," before completing its work. There are not a great many such organizations. In the recommendation of the Advisory Committee of Jurists above referred to, five are mentioned, only one of which is American—the American Institute of International Law. Aside from the Institute of International Law, I doubt whether any of these organizations are equipped

with a body of competent experts who could render greater service in the field under consideration than a group drawn from the professorial forces of the American universities. Such a body might be constituted through the machinery of the Association of American Law Schools. Your Governing Committee, with the information at its disposal, probably could pick out the students of international law in the faculties of the various law schools, possessing the necessary scholarship, who are best qualified to give effective suggestion in aid of the problem stated in the Assembly Resolution. If pursuant to a report of the League Committee, a further step be taken and that Committee, or some successor, be commissioned to restate the established rules of international law, and to formulate amendments and additions to the rules of international law, shown to be necessary or useful by the events of the War and the changes in the conditions of international life and intercourse which have followed the War, then the precedent which has been established by the American Law Institute may well be followed, and such a Commission draw to its aid in their task, from the Associated American Law School faculties, men qualified by years of study and teaching of the law of nations, in the same way in which professors of law are now engaged in collaborating in the production of restatements of the Law of Contracts, Torts, Agency, Conflict of Laws and other common law topics. Assuredly, in a work of this magnitude, America should contribute her best scholarship in connection with that of Europe and of other lands, in the formulation of rules of law applicable to affairs outside of the exclusive domain of domestic law.

As Mr. Root said in his Presidential address before the American Society of International Law in April, 1921:

"There can be no real court without law to control its judges, and there can be no effective law without institutions for its application to concrete cases. This is the traditional policy of the United States—to establish and extend the law declaring the rules of right conduct accepted by the common judgment of civil-

zation, and to substitute in international controversies upon conflicting claims of right, impartial judgment under the law in the place of war."

Pursuant to agreement of the nations, a Permanent Court of International Justice has been set up for the purpose of determining through the peaceful processes of judicial action controversies between nations. The Secretary of State and two Presidents of the United States have recommended adhesion by our country to that Court. Their recommendations are at present pending before the United States Senate. But in order that a court may be effective in the determination of controversies, the law which it is to apply must be known or ascertainable. Since the war, a very large body of international agreement has been entered

into, which has the force of law over all of the nations, parties to the agreements. But there is still a vast body of what is known as international law, public and private, to be ascertained only in the decisions of courts, the proof of immemorial international usage, recognized as law by all civilized nations, and the writings of the most highly qualified publicists of various nations. That this body of law may be clarified and made more easily recognizable and authoritative, the scholarship of the whole civilized world should be invoked, to the end that the civilized conception of international justice should prevail and find expression in authoritative law. It is into this field of activity that I venture to invite the thought of the representatives and faculties of the law schools of America.

The Judicial Prerogative and Admission to the Bar

By ANDREW A. BRUCE

Professor of Law in Northwestern University

[Reprinted by permission from Illinois Law Review, Vol. XIX, No. 1; May, 1924. In connection with Judge Bruce's article, it is interesting to note that at the Philadelphia Meeting of the American Bar Association, last July, the Section on Legal Education indorsed the proposition and resolved to invite the Judicial Section to make this topic a special order of business.]

IN 1921 the American Bar Association recommended that every applicant for admission to the bar should be obliged to show (1) that he had had two years of college education acquired in a college, and (2) that he had studied law for three years in a law school which required for entrance two years of previous study in a college. It further recommended that no law school should be recognized as in good standing that did not employ a number of teachers devoting all of their time to the work of the school.

In October, 1923, by a court rule, the Supreme Court of Illinois adopted these recommendations as to the time of study

and the nature of the requirements, but to a certain extent permitted equivalents and did not in all instances stress the point of actual attendance either in a college or in a law school.

Prior thereto and in 1921 the Supreme Court of Kansas had paved the way, by adoption, also by a court rule, of substantially the same requirements as those later prescribed by the Supreme Court of Illinois.¹

¹ In the State of Kansas, however, we are confronted with a remarkable conflict of principle.

In the case of *Hanson v. Gratton*, 84 Kansas, 843, the court stated that:

"A practicing attorney is an officer of the court in which he is admitted to practice. The power to admit applicants to practice law is judicial and

The adoption throughout the American Union of the recommendations of the American Bar Association is the desideratum. It is the consummation devoutly to be wished, yet the general adoption of those recommendations, even as they have been modified by the supreme courts of Kansas and of Illinois, would tend very greatly towards the elevation of the American bar and of the whole administration of justice.

Always, however, there are so many slips between the legislative cup and the

not legislative, and is, of course, vested in the courts only. The act of admission is a judicial determination, and is not for a term of years but for life, or until the attorney shall have been disbarred by a court of competent jurisdiction.

"It is generally conceded, however, that it is competent for the legislature to prescribe the qualifications for admission and the grounds for disbarment, as well as the procedure therein.

"It is not within the power of the legislature, however, to admit an attorney to practice in the courts of the state or to disbar a practicing lawyer. *Ex parte Secombe*, 60 U. S. 9; *In re Day*, 181 Ill. 73; *Garrigus v. State ex rel. Moreland, Auditor*, 93 Ind. 239, 242.

"Originally the courts alone determined the qualifications of candidates for admission, but to avoid friction between the departments of government the courts of this and other states have generally acquiesced in all reasonable provisions relating to qualifications enacted by the legislature."

Yet no reference was made to the prior case of *State v. Swan*, 60 Kansas, 461, in which, though, we find the statement that:

"The learned counsel for the appellant contends (and in this he is fortified by much authority) that the right to a license to practice law in the courts is conferred by judicial and not legislative authority. No denial of this doctrine is necessary to a decision of this case. The legislature has power to prescribe the qualifications requisite to admission to the bar, but it has no power to provide that persons possessing them must be admitted to practice. Whether the prescribed qualifications exist is a judicial question." The court held that where the statute itself made no provision as to the qualifications of a district or county attorney, the person elected might practice in the criminal courts, even after he has been disbarred by a formal court decree, and this before he was elected to the office. Nor did it mention that the determination of this question was avoided (though perhaps not really necessary) in the case of *State v. Smith*, 50 Kansas, 69.

Perhaps, however, both of these cases can be explained on the theory that in neither of them did the judge himself object to the attorney so appearing.

The statute of Kansas is as follows:

Sec. 478. Any citizen of the United States who has read law for three years in the office of a regularly practicing attorney, or who shall be a graduate of the law department of the University of Kansas or some other law school of equal requirements and reputation, and who satisfies the Supreme Court of this state that he possesses the requisite ability and learning, and that he is of good moral character, may be admitted to practice in all the courts of this state upon taking the oath prescribed.

Sec. 479. The Supreme Court of this state may make such rules as it deems necessary for the examination of applicants for admission to the bar of this state.

legislative lip that it is quite certain that if we look to the legislatures alone, either of these reforms will be long in their consummation. The history of Abraham Lincoln is still one to conjure with and the cause of the alleged poor boy is a popular cause. Our legislators as a whole are not yet awake to the value and necessity of an educated bar and the lawyer member is always to be found who represents the suggestion that his own training was not adequate. On the other hand, the members of our supreme courts are generally awake to the need and to the necessity. They know from experience the miscarriages of justice which can be laid at the doors of the incompetent. They know the joy of listening to arguments in cases which have been thoroughly prepared by competent counsel and how easy it is to decide those cases. They know how difficult is the decision where the cases are not properly prepared, and where the facts and the law are distorted. They remember the scores of instances in which they have been compelled themselves to brief the cases and to search for the authorities in order to do justice to the unfortunate litigants who have entrusted their fortunes to the legal novice or the legal charlatan. Have they really the power, and if they have the power, will they have the courage to take the matter into their own hands and, following the leadership of the supreme courts of Kansas and of Illinois, raise the standards of admission by court rules? Would it be wise or possible for the Judicial Section of the American Bar Association to adopt a resolution which shall pledge its members to adopt such rules in their several courts? If such a thing should and could be done, the standards of the American bar would immediately be raised. Can and should such a thing be done? Is the matter one of judicial or of legislative competency?

In 1894 in the case of *In re Day** the Supreme Court of Illinois boldly asserted the prerogative and said:

"The legislature may enact legislation for the protection or the public against such things hurtful or threatening to their

safety and welfare. So long as they do not infringe upon the powers properly belonging to the court they may prescribe reasonable conditions which will exclude from the practice those persons through whom injurious consequences are likely to result to the inhabitants of the state.

* * * It will be strange, indeed, if the court can control its own courtroom, and even its own janitor, but that it is not within its power to inquire into the ability of the persons who assist in the administration of justice as its officers.

* * * The function of determining whether one who seeks to become an officer of the courts, and conduct cases therein, is sufficiently acquainted with the rules established by the legislature and the court governing the rights of parties, and under which justice is administered, pertains to the courts themselves. They must decide whether he has sufficient legal learning to enable him to apply those rules to varying conditions of facts, and to bring the facts and law before the courts, so that a correct conclusion may be reached.

* * * The fact that the legislature may prescribe the qualifications of doctors, plumbers, horseshoers and persons following other professions or callings not connected with the judicial system, and may say what shall be evidence of such qualifications, can have no influence upon this question.

* * * The attorney is a necessary part of the judicial system, and his vocation is not merely to find persons who are willing to have lawsuits. He is the first one to sit in judgment in every case, and whether the court shall be called upon to act depends upon his decision. * * *

³ It is to be noticed, however, that in Illinois "the division of powers" is not left to be inferred from the general plan and arrangement of the constitution, but is clearly expressed in the constitutional provision that: "The powers of the government of this state are divided into three distinct departments—the legislative, executive and judicial; and no person or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted."

Under this provision and with much show of reason the Illinois Supreme Court held that although it was the duty of the various county boards to erect and to keep in repair suitable courthouses, when the boards had provided rooms they were under the control of the courts and that it rested with the judges of the courts to arrange among themselves how they would occupy the several courtrooms thus provided for them, and it cited with approval the

The last clause is the most important, Is and can the public be led to believe that the attorney is a necessary part of the judicial system? Is his primary duty that of an assistant judge? Is his consent necessary to every lawsuit? Is he in the true sense of the term, and, what is of the utmost importance, in the public conception, "the first one to sit in judgment in every case"; and is it a necessity of our judicial system that whether the court shall be called upon to act shall depend upon his decision? Or does the public, and has the public the right to, believe that the cause of a democratic justice demands a bar of its own choosing which shall, as it were, represent the virile and progressive but legally unsophisticated public mind; be suggesters of and champions before the more or less cloistered courts of the new and popular ideas, and be protesters on the part of their clients against a legal formalism? Will the cause of democracy or of legal growth be sufficiently guaranteed by leaving to the public the selection of their judges and then leaving to those judges the selection of their assistants, who will ordinarily be those of a like mind or at any rate be trained in the same schools of thought as their superiors, or does the cause of individual liberty and of a popular legal growth demand a legislative control which shall prevent both a close corporation, as it were, and an aristocracy of the bar, and guarantee a Pierian spring of new ideas and "common sense" law? ⁴

Throughout the history of the English law there is to be seen a growing assertion of independence on the part of the English judges and at no time do they seem to have surrendered either to the king or to Parliament, and yet until the time of William and Mary we find

case of *In re Janitor of Supreme Court*, 35 Wis. 410, in which the Supreme Court of Wisconsin held that the judicial power extended to the selection of the court's own janitor.

⁴ "So long as there is a legal profession, professional opinion is among the most powerful of the forces that mould the law, and we may see it exercising its influence directly as well as indirectly. In Edward I's day it is impossible to uphold a writ which all the sergeants condemn, and often enough to the medieval law reporter 'the opinion of the sergeants' seems as weighty as judgments (see, e. g., *Y. B. 30, 1 Edw. I. p. 107*)." Pollock and Maitland "*History of English Law*," I, 217.

little or no express recognition of that fact, and until the time of the Bill of Rights the judges were appointed by the king and removable by the king, and the old assumption that the king was the fountain head of justice was allowed to go unchallenged by the popular Parliament.

Nowhere at any time and even after the Bill of Rights do we find Parliament as Parliament dictating to the judges the qualifications of those who should actually appear before them, and what acts of Parliament have been passed have been in aid of, rather than in curtailment of, the prerogative of the courts.

The statute of Westminster I, 3 Edw. I, c. 29, enacts that if any serjeant, counter or other do any manner of deceit or collusion in the King's court, or consent unto it in deceit of the court or the party, and thereafter be attainted, he shall be imprisoned for a year and a day and from thenceforth shall not be heard to plead in that court for any man.

This, however, was but a penalty for a crime and a penalty in which the courts would readily have acquiesced.

The Statute of 15 Edw. II restrains the barons of the exchequer from admitting attorneys, except in pleas before them, and prohibits their clerks and servants from admitting attorneys, but reserves to the chancellor and the chief justices the power to admit attorneys according to their discretion, "as had before been observed." In this there is certainly no restriction of the judicial prerogative as it has generally been understood. The statute relates to attorneys and not to counsellors or barristers. It recognizes the right of the barons of the exchequer to appoint their own attorneys and only forbids them to appoint the attorneys for other tribunals. It certainly recognizes the prerogative and the independence of the chancellor and of the chief justices.

Surely no judge would object to the Statute of 4 Henry IV, c. 18, which enacts that:

"Attornies shall be examined by the justices and by their discretion their names put in the roll, and that they be good and virtuous and of good fame [pre-

sumably in the opinion and discretion of the justices] shall be sworn well and truly to serve in their offices, and especially that they make no suit in a foreign country, and the other attornies shall be put out by the discretion of the said justices, and that their masters for whom they were attornies be warned to take others in their places, so that in the meantime no damage nor prejudice come to their said masters. And if anyone of the said attornies do die or do cease, the justices shall make another in his place which is a virtuous man and learned and sworn in the same manner as fore is said. And if any such attorney be found in any default or record or otherwise, he shall forswear the court, and never shall be received to make any suit in the court of the king."

Nor certainly would the judges object to 33 Hen. VI, c. 7, which, after reciting the great increase of attornies in Norfolk and Suffolk and the abuses occasioned by their soliciting business at fairs and other public places, enacts that there shall be but six attornies in Norfolk, six in Suffolk, and two in Norwich, to be admitted by the two chief justices.

Nor would they object to 3 Jac. c. 7, which enacts that attornies or solicitors delaying their clients' suits for gain or making false charges shall be liable to costs and treble damages in an action, and be discharged from being an attorney or solicitor any more. And to avoid the infinite number of solicitors and attornies, none shall be admitted but such as shall have been brought up in the said courts or otherwise well practiced in soliciting of causes, and have been found by their dealings to be skilfull and of honest disposition, and that none be suffered to solicit causes in any of the courts aforesaid, but only such as are known to be men of sufficient and honest disposition.

All of these statutes appear to have been generally acquiesced in and at no time does there appear to have been any judicial necessity for scrutinizing their requirements. None of them in fact prescribed requirements, nor did they in any way seek to control the ultimate discretion of the courts, nor did they relate

to the counselors or to barristers. This even is true of the later statutes of 2 G. II, c. 23, s. 5, 12 G. II, c. 13, s. 3, 22 G. II, c. 46, s. 2, 30 G. II, c. 19, s. 7, 2, which required solicitors to be apprenticed in offices for a certain period and which appear to have been recognized as a parliamentary prerogative in the case of *Ex parte Taylor*,⁵ in which the court when asked to ignore the statutory time requirements said: "If we were to do that, I think we should not comply either with the spirit or the words of the act of Parliament."⁶

Though, indeed, there was in England no express constitutional division of the powers of government, such a division appears to have been acquiesced in from the earliest history. There was, it is true, a strange intermingling of powers or of prerogatives which arose from the fact that the king assumed to be the fountain of justice and, up to the time of the Revolution of 1689, was conceded the power both to appoint and remove "his" justices, but since the time of *Magna Charta* we find a recognition of the law of the land, the theory of an established common law, the theory of a law of precedent which the courts were called upon to and did pronounce and enforce even as against the king himself.⁷

⁵ *Barn. & Cres.* 442, 6 Dowl. & Ry. 428.

⁶ In 6 Ann. c. 9, ss. 32, 37, and 9 Geo. IV, c. 49, s. 4, we also find various stamp duties which were imposed on articles of clerkship.

⁷ "And it is commonly said in our books, that the king is always present in court in the judgment of law; and upon this he cannot be nonsuit: but the judgments are always per curiam; and the judges are sworn to execute justice according to law and custom of England and it appears by the act of Parliament of 2 Ed. III, cap. 9, 2 Ed. III, cap. 1, that neither by the great seal nor by the little seal, justice shall be delayed; ergo, the king cannot take any cause out of any of his courts, * * * and give judgment upon it himself, but in his own cause he may stay it, as it doth appear 11 H. IV, 8. * * * Then the king said that he thought the law was founded upon reason, and that he and others had reason as well as the judges: to which it was answered by me that true it was that God had endowed His Majesty with excellent science and great endowments of nature; but His Majesty was not learned in the laws of his realm of England, and causes which concern the life or inheritance or goods or fortunes of his subjects are not to be decided by natural reason, but by the artificial reason and judgment of law, which law is an act which requires long study and experience before that a man can attain to the cognizance of it: and that the law was the golden metwand and measure to try the causes of the subjects; and which protected His Majesty in safety and peace: with which the King was greatly offended and said that then he should be under the law, which was treason

Though the king reserved to himself a sort of police power, a power which restricted the individual freedom and provided for the general welfare as against a class elected Parliament and at times superimposed a rule of conscience and of public necessity on the law of individual right and the law of precedent which the common law prescribed, the necessity of judicial enforcement and with it the power of judicial construction was always recognized, and instances are not lacking where the judicial appointees of the king not only defied the Parliament but the king himself. This was, it is true, usually done under the excuse of reasonable construction, but it was done nevertheless.

Prior to the American Revolution indeed and with the exception of the statutes mentioned there appears to have been no attempt on the part of Parliament to interfere with matters of the qualification even of attorneys and solicitors and all of these statutes are supplementary and of a police nature rather than original. And though at first the right of appointing counsellors and barristers appears to have been claimed by the king, and still longer the right of nomination, the power of prescribing requirements and of ultimate admission were early entrusted to the courts and were regulated by court rules.⁸ It is questionable also if some of the earlier so-called statutes to which we have referred were statutes at all but rather acts of the king in council and in a real sense the acts of the king alone, the authority for which lay in the supposed fact that he himself was the fountain head of justice.

Some confusion indeed has arisen from confounding the old "pleader," whether professional or unprofessional, with the counsellor barrister. The attorney was the litigant's alter ego and not the ad-

to affirm, as he said; to which I said that Bracton saith, *quod Rex non debet esse sub homine, sed sub Deo et lege.*" *Prohibitions del Roy*, 12 Coke's Reports, 63.

⁸ Among these rules of court were: Rules of Mich. 1654, K. B. and C. P.; and 1704, K. B.; 1706, C. P.; Mich. 1573, Trin. 1532, East. 1615, C. P. Hil. 1645; Trin. 1457, C. P.; Mich. 1564, C. P.; Trin. 1632, C. P.; Trin. 1582, C. P.; Hil. 1616, C. P.; Hil. 1632, C. P.; East. 1656, Hil. 1662, K. B.; Trin. 1669, C. P. See Merrifield "Attorneys," 7.

viser of the court or the expounder of the law. Originally in no sense was he an officer of the court. "The professional pleader makes his way into the courts, not as one who will represent a litigant, but as one who will stand by the litigant's side and speak in his favor, subject, however, to correction, for his words will not bind his client unless that client has expressly or tacitly adopted them," and the early law which allowed a person to be represented in civil cases by attorneys was merely a recognition of the fact that some litigants were ready of tongue and some were not. The attorney was a mouthpiece, an Aaron, and not necessarily a Moses learned in the law. "The attorneys of Glanville's time," say Pollock and Maitland, "do not seem to be in any sense 'officers of the courts.' Nor do they as yet constitute a closed professional class. Probably every 'free and lawful person' may appear as the attorney of another; even a woman may be an attorney, and a wife may be her husband's attorney."⁹

Later, it is true, this business became professionalized, and its members were made the subjects of parliamentary as well as judicial regulation, but at no time prior to the American Revolution do we find the counsellor or adviser of the court (the one with the real and personal right of audience) appointed in any other way than by the king as the source or protector of the law or by the judges both by their own and as representatives of the royal prerogative.¹⁰

It is true that the New York Court of Appeals¹¹ has taken a contrary position on these matters; but though, as far as the State of New York is concerned, there is much to be said in favor of its argument, which is based upon the fact that though the Constitution of 1777 vested the power of appointing directly in the courts this provision was omit-

ted from that of 1822, there is we believe no warrant for its other historical argument that "barristers or counsellors at law in England were never appointed by the courts at Westminster, but were called to the bar by the Inns of Court, which were voluntary, unincorporated associations. The power of the court to appoint attorneys as a class of public officers was conferred originally, and has been from time to time regulated and controlled in England by statute." There is also altogether too much judicial nonchalance in the statement: "I take no notice between attorneys and counsellors in the courts of this state because the same principles in respect to the mode of appointment are, of course, applicable to both."

In England this was not the fact, nor originally was it so even in the Supreme Court of the United States,¹² and it is for this very reason that since, today in the United States, we have generally combined the two functions, and since every attorney or solicitor is also a barrister and as such barrister is entitled to "an audience" in the courts, the English statutes have no significance.

In support of its doctrine of a legislative rather than of a judicial prerogative, the New York court relied upon the statute of 4 Henry IV, yet, as we have before seen, this statute not only was not in derogation of the judicial prerogative but in its express terms applied to attorneys and to attorneys alone.

The barrister alone had the right to the court audience. He was "a counsellor admitted to plead at the bar."¹³ Originally the right to call to the bar was exercised and claimed by the king as the fountain head of justice;¹⁴ later that right or power was granted by Edward I to the judges exclusively, and though that grant was enrolled as an act of Parliament it was in its express

⁹ See Pollock and Maitland "History of English Law," Vol. I, p. 213; 1 Glanvil. lib. XI.

¹⁰ Pollock and Maitland "History of English Law," Vol. I, p. 213; Stat. of Westminster II, c. 10, gave a general right to appoint an attorney to appear in all causes which should come before the justices in a given year. *Registrum Brevium Originalium*, ff. 20-22, Britton, Vol. II, p. 357; *Select Civil Pleas*, pt. 141; *Note Book*, pt. 342, 1361, 1507.

¹¹ *Case of Henry Cooper*, 22 N. Y. 67.

¹² "In the Supreme Court of the United States the two degrees of attorney and counsel are kept separate, and no person is permitted to practice in both capacities. It is the duty of counsel to draft or review and correct the special pleadings, to manage the cause on trial, and during the whole course of the suit, to apply established principles of law to the exigencies of the case." Kent, "Comm." I, §.

¹³ *Bouvier Law Dictionary*.

¹⁴ Pollock and Maitland "History of English Law," Vol. I, p. 191, Vol. II, p. 234.

terms a grant from the king and in reality was not an act of Parliament at all.¹⁵ Later still the judges constituted the benchers of the Inns of Court their deputies for this purpose, and the benchers called to the bars of their respective inns, and the judges received at the bar of the court without further form or ceremony, those whom the benchers as their authorized deputies had called. The benchers of the Inns did not constitute nor did they profess to constitute the applicants barristers at law. These persons were only called to the bars of their respective inns. They became barristers at law when they were received by the judges. Though these inns were in a large sense voluntary societies, at an early date they were always under royal or judicial supervision.

At an early date lawyers gathered about the court of Westminster and hospitium curiæ were established, which contained schools of law. On the suppression of the Knights Templars, the Pope granted their estates to the Knights Hospitallers of St. John of Jerusalem, who leased their buildings in London to the students of the law. The place was called "the Temple" and from its former occupants the societies of the Inner Temple and the Middle Temple were formed. After the suppression of the Knights of Hospitallers by Henry VIII, the society held the Temple Building of the Crown by lease, and in 1608 they were granted by letters patent of James I to the Chancellor of the Exchequer, a judicial officer, the Recorder of London and the benchers and treasurers of the Inner and Middle Temples for "lodging, reception, and education of the professors and students of the law." From time to time rules were made for the government of these inns by the judges, or with their concurrence and the advice and consent of the king or queen and the bench-

ers or societies themselves. The societies submitted for ages to be governed by the rules so made, and in every instance their conduct was subject to the control of the judges as visitors. They were voluntary societies to which mandamus would not lie, but the ancient and usual method of redress for any grievance was that of appealing to the judges as visitors.¹⁶

There is indeed little in the history of the American law that points to any recognition of the right of legislative control, though at an early time in some and perhaps all of the commonwealths it was for a time recognized that the right was a royal prerogative and could be delegated by the monarch to his representative, the governor. Even then and in all of his appointments the king acted alone or in council and not in or through his Parliament, and where the governors acted for him the recommendations of the judges always appears to have been sought even if not required.¹⁷

In the State of New Jersey the king first appointed or patented; then and for some little time the governor took his place; then and for a period prior to and after the adoption of the Constitution of 1775, the practice arose, founded upon custom and upon custom alone, of the governor issuing the patents, but only upon the advice and consent of his judges. Later and in 1904, the judges held that their right was vested and beyond legislative control, and this was under the provisions of the Constitution of 1844, which provided that the former court should "continue with like powers and jurisdiction."¹⁸

If in all this there was an assumption of power, the reason therefor was very apparent. There was in it something more than the desire to control patronage. It was similar to the assumption of the power, if assumption there was, to construe and to enforce the Constitution. No doubt it was premised that the

¹⁵ That act provides: "Dominus rex intulit J. de Mettingham (Chief Justice of the Court of Common Pleas) et sociis suis, quod ipsi, per eorum discretionem, provident et ordinent certum numerum, de quolibet comitatu, de melioribus et dignioribus et libentius addiscentibus, secundum quod intellexerint quod curiæ suæ et populo de degno melius valere poterit, et malus commodum fuerit. Et quod ipsi quos ad hoc elegerint curiam sequantur, et se de negotiis in eadem curia intromittant et alii non." 20 Edw. 1.

¹⁶ *Rex v. Benchers of Lincoln's Inn*, 4 Barn. 1 c. 365; W. C. Bolland, "Two Problems of Legal History," in *Law Quarterly Review*, XXIV, 392; *Dudg. Oreg. Jur.* 312, 316, 317, 320; *Booseman's Case*, March 177, *Rex v. Benchers of Gray's Inn*, 1 Doug. 353.

¹⁷ *In re Branch* (N. J.) 57 Atl. 431, 434.

¹⁸ *In re Branch* (N. J.) 57 Atl. 431.

ancient law and the ancient traditions must prevail and that in order that this might be accomplished it was very necessary to have a bar which in advising its clients and in advising the courts, and in forming the first judgment in every case, would exercise the judicial mind of the common law and would administer the law of the land. The practice we believe was adopted to preserve the very thing which the early French and the modern Russian revolutionists sought to destroy. It was to maintain a system of law which should be founded on the traditions of the past and under which freedom might slowly broaden down from precedent to precedent. It was not the desire to confuse litigants and the courts with the ologies and legal idiosyncrasies of the legal and governmental novice and the legal and governmental explorer and charlatan.

Throughout the history of our law has there not been a persistent theory that the ancient law is an ancient trust; that though parliaments and popular assemblies may come and go the judge-made law will always be with us, and that it is on the principles of that common law that the permanence of our social fabric is based? Did not the framers of our Constitution purposely divide the agencies of government in creating independent courts? Did they not impliedly grant to those courts the power to choose their own advisers?

The theory both of England and of America has been the theory of ancient and established right, and of a common law and of courts which shall preserve them. The American Constitution sought to create no new privileges, but rather to preserve and perpetuate in America rights which already had been won or conceded in the mother country. Opposed to this theory is the theory of modern Russia, where there was a rebellion and not a revolution. A revolution is a turning backwards, and this constantly was the English practice and the English claim. The common law grew—"freedom slowly broadened down from precedent to precedent." And though now and then monarchs like James I, Charles I, James II, and

George III sought to overthrow the ancient law, both the Parliament and the courts stood against them. The jurisdiction which the courts assumed indeed was a jurisdiction of which the populace approved. Even Parliament itself was in sympathy with its assumption because in the main the protest of the courts was against the royal and not the parliamentary prerogative, and both the Parliament and the courts when confronted with the excesses of the royal powers, and the theory of the divine right of kings, were asserting the Magna Charta, the law of the land and the ancient rights. In Russia the past had to be forgotten, and the ancient law disproved. In Russia, too, the courts had been a part of the old aristocratic tyranny, and not the expounders of an individualistic law. The new regime indeed wanted communism and not individualism. The rights of the few against the many were not recognized. The same considerations apply to the communist revolution in Hungary, where the courts and the lawyers were dispossessed, and to the situation which prevailed in France in the earlier stages of the Revolution. At the time of the French Revolution, a new goddess of reason was enthroned above the law, and the lawyer was in disrepute both because he represented the established law, and because he was deemed a necessary and pernicious part of an aristocratic system.

Like the English Revolution, the American Revolution was a revolution and not a rebellion. If anyone was a rebel it was the British monarch. We were fighting for the established principles of the common law. We adopted a bill of rights which breathed the individualism of that law. We created a national court in order to make the guarantees of our national Constitution sure. We created a national life-term judiciary. We needed lawyers who were trained in the system which we sought to perpetuate.

Our fundamental rights were asserted in written constitutions, both state and national, and we needed a bar that would understand and would protect those rights. We were not looking for a bar

that would assert a new law. Ours was to be a government of laws and of precedents, and not of new theory and ologies. The lawyer was to be an officer of the court, the first to sit in judgment on the cause of his client. He was to be the servant of his client, but only under the law. He was sworn to support the constitutions and he was only privileged to ask for his client that which the law allowed.

This certainly has been the theory of the American courts, though as a rule they have chosen merely to assert the prerogative and to justify it on historical grounds and not to explain it. Generally they have conceded to the legislature the power to say who shall not practice law, but perhaps in only one instance, and in that there was an assumed constitutional provision or precedent to the contrary,¹⁹ have they conceded to it the right to say who shall. Almost always they have yielded to the legislative desire or discretion in unimportant matters; generally they have sought to be polite and "to avoid friction between the departments of government, have generally acquiesced in all reasonable provisions relating to qualifications enacted by the legislatures."²⁰ Always where the legislatures have prescribed newer and higher qualifications they have enforced them without comment; but never have they consented to have the standards lowered by mere legislative fiat; nor to have the rules for admission which they themselves have drafted to be set aside. Where, indeed, the legislatures alone, and without the support of any constitutional warrant, have sought to impose incompetency upon the courts, or to make an issue between the court rules and their own enactments, the judicial tribunals have stood adamant.

"We do not understand," said the Supreme Court of Wisconsin "that the circuit courts generally yield to the unwise and unseemly act of 1849, which assumes to force upon the courts, as attorneys, any person of good moral character, however unlearned or even illiterate; how-

ever disqualified by nature, education or habits for the important trusts of the profession. We learn from the clerk of this court that no application under the statute was ever made. The good sense of the legislature has long since led to its repeal. And we have too much reliance on the judgment of the legislature to apprehend another such attempt to degrade the courts. The state suffers substantially by every such assault of one branch of the government upon another, and it is the duty of all the co-ordinate branches scrupulously to avoid even all seeming of such. If, unfortunately, such an attack on the dignity of the courts should again be made, it will be time for the courts to inquire whether the rule of admission be within the legislative or judicial powers. But we will not anticipate such an unwise and unbecoming interference in what so peculiarly concerns the courts, whether the power to make it exists or not. In the meantime it is a pleasure to defer to all reasonable rules on the subject."²¹

And again and in the case of motion to admit Ole Mosness²² the same court said:

"The office of attorney and counsellor of the courts is one of great official trust and responsibility in the administration of justice; one liable to great abuse; and has always been exercised in all courts proceeding according to the course of common law, subject to strict oversight and summary power of the court. It would be an anomaly dangerous to the safe administration of justice, that the office should be filled by persons residing beyond the jurisdiction of the court, and practically not subject to its authority. We take it that members of the bar of this state lose their right to practice here by removing from the state. After they become non-residents they can appear in courts of this state *ex gratia* only. Our courts cannot have a non-resident bar. This all appears to us to be, so very plain, that it is difficult to believe that chapter 50 of 1855 was intended to do more than to authorize the appearance here as counsel in the trial and argument of causes of

¹⁹ See Case of Henry Cooper, 22 N. Y. 67.

²⁰ Harrison v. Grattan, 84 Kan. 843, 845; Matter of Goodell, 39 Wis. 232.

²¹ Matter of Goodell, 39 Wis. 232.

²² 39 Wis. 509.

gentlemen of the bar of other states. If intended to do that, it was probably unnecessary. If intended to do more, it was clearly without the power of the legislature." 23

In the case of *In re Day* 24 the Supreme Court of Illinois said:

"The powers of the government of this state are divided into three distinct departments—legislative, executive and judicial; and no person or collection of persons being one of these departments shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted. * * * This court has never acknowledged the power of the legislature to prescribe the amount of learning which shall qualify an attorney to practice in our courts. * * * The effect of enforcing such a statute would be to degrade the profession and fill the ranks with those not qualified by our rules. * * * In any consideration of the question it must not be forgotten that restrictions upon the privilege of practicing law are created only in the interest of the public welfare, and neither for nor against the student. * * * The legislature may enact legislation for the protection of the public against things hurtful or threatening to their safety and welfare. So long as they do not infringe upon the powers properly belonging to the court, they may prescribe

²³ In *In re Splane* (Pa.) 16 Atl. 481, the Supreme Court of Pennsylvania held an act invalid and an unwarranted encroachment on the judicial prerogative which provided that any court of the commonwealth should admit to practice in it any attorney who had been admitted in any court of common pleas or in the Supreme Court of the commonwealth, upon motion, simply and after the filing a certificate of such prior admission together with a certificate of good moral character. The opinion is written by Chief Justice Paxson who contents himself with asserting the judicial prerogative and independence without the citation of authority.

In the case of *In re Platz*, 132 Pac. 390, the Supreme Court of Utah, in holding that in a disbarment proceeding the court was at liberty to inquire into the fact that criminal charges had been preferred against an attorney even though an acquittal had been had, made the general statement, unaccompanied by citation or authority, that: "Nor can the legislature limit the courts in their right to determine the moral qualifications of their officers or prevent them from refusing to admit morally incompetent persons to practice, nor compel them to retain such upon the roll. If such were the law, then the verdicts of juries or the notions of prosecutors or legislators, and not the deliberate judgments of the courts, would control in such matters. The courts and not juries or legislators must ultimately determine the qualifications and fitness of their officers."

²⁴ 181 Ill. 72.

reasonable conditions which will exclude from the practice those persons through whom injurious consequences are likely to result to the inhabitants of the state.

* * * It will be strange, indeed, if the court can control its own courtroom, and even its own janitor, but that it is not within its power to inquire into the ability of the persons who assist in the administration of justice as its officers. * * * The function of determining whether one who seeks to become an officer of the courts, and to conduct cases therein, is sufficiently acquainted with the rules established by the legislature and the court governing the right of parties, and under which justice is administered, pertains to the courts themselves. They must decide whether he has sufficient legal learning to enable him to apply those rules to varying conditions of facts, and to bring the facts and law before the courts, so that a correct conclusion may be reached. * * * The fact that the legislature may prescribe the qualifications of doctors, plumbers, horseshoers and persons following other professions, or callings not connected with the judicial system, and may say what shall be evidence of such qualifications, can have no influence upon this question. * * * The attorney is a necessary part of the judicial system, and his vocation is not merely to find persons who are willing to have law suits. He is the first one to sit in judgment on every case, and whether the court shall be called upon to act depends upon his decision."

These are manly words. If generally adhered to by the American courts the problem of raising the standards of the legal profession can easily be solved. If the power to prescribe the standards ultimately rests with the courts and not with the legislatures, is there not a man's work for the judicial section of the American Bar Association to do? Though created with some hopes, and perhaps with some little flourish of trumpets, so far that section has accomplished little but to meet once a year, "eat quail on toast and read obituary notices." 25 Why

²⁵ The writer of this article was one of the charter members of the section. He speaks in contrition and not in scorn.

should it not now function? Why should it not evidence its vitality by adopting a resolution which shall endorse the recommendations of the American Bar Association in relation to the matter of the admission to the bar and pledge its mem-

bers to the adoption of that recommendation by means of court rules?

If such rules were generally adopted and enforced, the problem of the elevation of the American bar would be largely solved.

Meeting of the Association of American Law Schools---1924

OFFICERS OF THE ASSOCIATION, 1925

President O. K. McMurray, University of California, Berkeley.
 Secretary-Treasurer Ralph W. Aigler, University of Michigan, Ann Arbor.
 Executive Committee..... The President, ex officio.
 The Secretary-Treasurer, ex officio.
 William Draper Lewis, University of Pennsylvania.
 Thomas W. Swan, Yale University.
 Everett Fraser, University of Minnesota.

COMMITTEES FOR THE YEAR 1925

Committee on Curriculum:

H. Oliphant, Columbia University, Chairman.
 W. W. Cook, Yale University.
 E. R. Keedy, University of Pennsylvania.
 M. R. Kirkwood, Stanford University.
 H. S. Richards, University of Wisconsin.
 A. W. Scott, Harvard University.
 F. C. Woodward, University of Chicago.

Special Committee on Co-operation with the Bench and Bar:

Joseph H. Beale, Harvard University, Chairman.
 Henry M. Bates, University of Michigan.
 Austin T. Wright, University of Pennsylvania.
 M. L. Ferson, University of North Carolina.
 Everett Fraser, University of Minnesota.
 H. S. Richards, University of Wisconsin.
 N. T. Dowling, Columbia University.

Special Committee on International Law:

Manley O. Hudson, Harvard University, Chairman.
 E. D. Dickinson, University of Michigan.
 Edwin M. Borchard, Yale University.
 O. K. McMurray, University of California.
 Joseph W. Bingham, Stanford University.
 E. R. Keedy, University of Pennsylvania.

Committee on Jurisprudence and Legal Philosophy:

John H. Wigmore, Northwestern University, Chairman.
 Joseph H. Drake, University of Michigan.
 Albert Kocourek, Northwestern University.
 Ernest G. Lorenzen, Yale University.
 Floyd R. Mechem, University of Chicago.
 Arthur W. Spencer, Brookline, Mass.
 Roscoe Pound, Harvard University.
 Morris R. Cohen, College of the City of New York.

Committee on Legal History:

John H. Wigmore, Northwestern University, Chairman.
 Joseph H. Drake, University of Michigan.
 Ernst Freund, University of Chicago.
 Ernest G. Lorenzen, Yale University.
 Wm. E. Mikell, University of Pennsylvania.

ROUND TABLE COUNCILS FOR 1925
Business Associations:

I. P. Hildebrand, University of Texas, Chairman.
 R. S. Stevens, Cornell University, Secretary.
 D. O. McGovney, State University of Iowa.
 R. E. Mathews, Ohio State University.

Wrongs:

John B. Waite, University of Michigan, Chairman.
 W. A. Seavey, University of Nebraska, Secretary.
 Rollin M. Perkins, State University of Iowa.
 Henry W. Edgerton, George Washington University.

Equity:

M. T. Van Hecke, University of Kansas, Chairman.
 H. G. Spaulding, George Washington University.
 Stephen I. Langmaid, University of Missouri.
 F. C. Woodward, University of Chicago.

Commercial Law:

A. M. Kidd, University of California, Chairman.
 A. T. Wright, University of Pennsylvania.
 M. S. Breckenridge, Western Reserve University.
 Charles T. McCormick, University of Texas.
 Robert H. Wettach, University of North Carolina.

Property and Status:

Harry A. Bigelow, University of Chicago, Chairman for '25.
 O. S. Rundell, University of Wisconsin, Chairman for '26.
 R. R. B. Powell, Columbia University, Chairman for '27.

Jurisprudence and Legal History:

W. H. Page, University of Wisconsin, Chairman.
 Robert W. Millar, Northwestern University.
 H. E. Yntema, Columbia University.
 Wm. E. Mikell, University of Pennsylvania.
 M. S. Breckenridge, Western Reserve University.

Public Law:

T. R. Powell, Columbia University, Chairman. Subject: Constitutional Law.

G. J. Thompson, University of Pittsburgh, Secretary. Subject: Public Service Companies.

H. G. Spaulding, George Washington University. Subject: Administrative Law.

Wm. C. Van Vleck, George Washington University. Subject: Conflicts of Law.

Manley O. Hudson, Harvard University. Subject: International Law.

Remedies:

(To be designated.)

ARTICLES OF ASSOCIATION

Adopted August 28, 1900, as Amended and Construed in Subsequent Annual Meetings

THE undersigned Law Schools in the United States, represented by delegates duly appointed by their respective faculties, do hereby form an Association to be called the Association of American Law Schools, and establish the following as its Articles of Association:

First. The object of the Association is the improvement of legal education in America, especially in the Law Schools.

Resolved, That the members of the Association be requested to print in their annual announcement the fact of their membership in the Association. [Adopted. Proceedings, 1902, pp. 7, 10.]

Second. The Association shall meet annually at the time and place at which the American Bar Association meets, unless the Executive Committee shall otherwise direct. The Executive Committee may call special meetings at such time and place as the Committee may select; thirty days' notice of such meeting shall be given by the Secretary to all members of the Association, and the purpose of the meeting shall be stated in the notice.

Resolved, That each year there shall be one meeting of the Association of American Law Schools, which shall be a private business meeting of the Association only, at which no papers shall be presented. [Adopted. Proceedings, 1906, p. 22.]

The Executive Committee recommended for adoption at the 1914 meeting an amendment adding the words, "unless the Executive Committee shall otherwise direct." [Adopted. Proceedings, 1914, pp. 8-14.]

Resolved, That all teachers in law schools which are not members of the Association be cordially invited to attend our meetings and to participate in our discussions. [Adopted. Proceedings, 1921, pp. 39, 87, 88.]

Third. The Law Schools having delegates at this meeting and signing these Articles before July 1, 1901, shall be members of the Association, provided such schools shall comply with Article Sixth.

Resolved, That the Association recommends that the expenses of delegates to the annual meeting of the Association be paid by the schools appointing them. [Adopted. Proceedings, 1901, pp. 7, 10.]

See also minutes of the Executive Committee, Proceedings, 1908, p. 6.

The Association declined to make the sending of delegates compulsory. Proceedings, 1901, p. 10; 1902, p. 5. The Fourth Article which read, "Each member of the Association may send to the meetings delegates not exceeding four from each Law School," was stricken out by action of the Association. Proceedings, 1919, pp. 68-70.

Fifth. At all meetings of the Association the voting shall be by delegates, unless some delegate requests that any vote shall be taken by schools, in which case it shall be taken by schools, each school having one vote.

Sixth. Law schools may be elected to membership at any meeting by a vote of the Association, but no law school shall be so elected unless it complies with the following requirements:

1. It shall be a school not operated as a commercial enterprise, and the compensation of any officer or member of its teaching staff shall not depend on the number of students, nor on the fees received. [Adopted 1922. See Proceedings, pp. 64-66.]

2. After September 1, 1923, it shall require of all candidates for its degree at the time of their admission to the school the completion either of one year of college work or such work as would be accepted for admission to the second or sophomore year in

the College of Liberal Arts of the state university or of the principal colleges and universities in the state where the law school is located and, after September 1, 1925, it shall require of all candidates for its degree at the time of their admission to the school either the completion of two years of college work or such work as would be accepted for admission to the third or junior year in the College of Liberal Arts of the state university or of the principal colleges and universities in the state where the law school is located.

See Proceedings, 1921, pp. 31, 123-133. This section originally read as follows:

1. It shall require of candidates for its degree the completion of a high school course of study, or its equivalent. The equivalent may be determined by the Law School Faculty upon certificates issued under public authority, or by the authorities of an institution of advanced learning. In the absence of these the applicant shall be required to pass an examination in studies equivalent to those required of high school graduates: Provided, that this requirement shall not take effect until September, 1901.

The following construction was placed upon this section before its amendment:

Resolved, That the first requirement of the Sixth Article of the Articles of Association means that students when admitted to the school shall, as a general rule—subject only to occasional exceptions in special cases—possess the qualifications therein stated. [See Proceedings, 1903, p. 9.]

In 1905, this section, as originally enacted, was amended to read as follows:

1. It shall require of all candidates for its degree at the time of their admission to the school the completion of a four years' high school course, or such a course of preparation as would be accepted for admission to the State university or to the principal colleges and universities in the State where the Law School is located: Provided, that this requirement shall not take effect until September, 1907. [See Proceedings, 1905, pp. 9, 11.]

A later resolution on the subject is as follows:

Resolved, That the Association deems it highly advisable that the requirements for admission to the Law Schools which are members of this Association shall be advanced as rapidly as the conditions, under which the work of the several schools is carried on will permit, and strongly commends the action of those schools which have already advanced their requirements so as to require one or more years of work at college as a prerequisite to admission to the Law School and expresses the earnest hope that this advancement may continue until all of the members of the Association shall ultimately require at least two years of college work as preliminary to the study of law. [See Proceedings, 1908, pp. 4, 5.]

This resolution was adopted as part of the

report of the Executive Committee, which stated that "the Committee does not now recommend that any advancement in the requirement for admission shall be made compulsory upon the Association, or a condition of membership in it." See also Proceedings, 1910, p. 41.

The following resolutions were adopted December 29, 1916. [See Proceedings, 1916, p. 81.]

Resolved, That in case of members exacting only the minimum entrance requirement of a four years' high school course, all of such requirement should be completed before the study of law is begun. Resolved further, That even though the required preliminary education be in excess of the minimum prescribed by Art. VI. (1), it should be substantially completed before the study of law is begun.

At the Twentieth Annual Meeting the following was adopted: "Students may register as candidates for the law degree though conditional in not to exceed three year hours of college work." See Proceedings, 1922, pp. 156-158 (cf. Art. Sixth, Sec. 5.)

For recommendations as to a program of university courses for students preparing for the study of law, see Proceedings, 1909, pp. 38, 39.

3. A full-time school shall require of its candidates for the first degree in law resident study of law during a period of at least ninety weeks and the successful completion of at least ten hundred and eighty hours of classroom instruction in law. A school whose curriculum and schedule of work are so arranged that, in the opinion of the Executive Committee, substantially the full working time of its students is required for the work of the school, shall be considered a full-time school.

A school whose curriculum and schedule of work are so arranged that, in the opinion of the Executive Committee, substantially the full working time of its students is not required for the work of the school, shall be considered a part-time school. A part-time school must maintain a curriculum which, in the opinion of the Executive Committee, is the equivalent of that of a full-time school. The action of the Executive Committee under this paragraph shall in each instance be reported to the Association at its next annual meeting and shall stand as the action of the Association until set aside by a vote of a majority of all the members of the Association.

Any school now or hereafter a member of the Association, that conducts both full- and part-time curricula, must comply as regards each with the requirements therefor as set forth in the preceding paragraphs.

No school shall be or remain eligible to membership if the institution of which it is a part shall through any other agency conduct instruction in law designed to prepare

students for admission to the Bar or for Bar examinations, save in conformity with the provisions of the preceding paragraphs.

See Proceedings, 1919, pp. 71-87. This section originally read as follows:

2. The course of study leading to its degree shall cover at least two years of thirty weeks per year with an average of at least ten hours' required classroom work each week for each student: Provided, That after the year 1905 members of this Association shall require a three years' course.

The following construction was placed upon this section before its amendment:

Resolved, That any school which gives a degree to a student who has studied law for less than three years is not complying with Article VI of the Articles of the Association. [Adopted. Proceedings, 1907, pp. 39, 47.]

Resolved, That present members of the Association who have in good faith accepted a different interpretation of the requirements of Article VI shall have two years to comply with the interpretation now adopted. [Adopted. Proceedings, 1907, p. 48.]

Resolved, (1) That the question of giving credit for work done in other Law Schools must be left to the discretion of each member of the Association.

(2) That under no circumstances should students be admitted to advanced standing on account of work done in law offices, or elsewhere than in a Law School, except upon the applicant's passing rigid examinations on the subjects for which time credit is to be given.

(3) That the time credits so given for office work should not exceed one year.

(4) That the practice of giving advanced standing on account of office work, even when so restricted, is dangerous to the maintenance of high standards and is to be reprehended, but it is not deemed wise at the present time to adopt any regulation prohibiting the allowance of time credit of a year or less for such study in law offices and the consequent admission to advanced standing on that account. [See Proceedings, 1908, pp. 4-6.]

In 1909 this section was again amended to read as follows:

2. It shall require of its candidates for any legal degree study of law during a period of at least three years of thirty weeks each, with an average of at least ten hours' required class-room work each week; provided, however, that candidates attending night classes only shall be required to study law during a period of not less than four years of thirty weeks each, with an average of at least eight hours of required classroom work each week. [Proceedings, 1909, pp. 34, 36.]

"Whereas, The maintenance of regular courses of instruction in law at night, parallel to courses in the day, tends inevitably to lower educational standards.

"Be it Resolved, That the policy of the

Association shall be not to admit to membership hereafter any law school pursuing this course." [See Proceedings, 1912, p. 45.]

At the sixteenth annual meeting the Executive Committee reported as follows, concerning Article VI (2):

"Some doubts have arisen as to whether Article VI (2) requires the three years' study to be in residence. These doubts appear to have been caused in part by certain resolutions passed in 1907 and 1908 before subsection 2 was amended in its present form. In order to set at rest these doubts the Committee offers the following resolution:

"Resolved, That the period of study required by Art. VI (2) is to be interpreted as meaning resident study."

The foregoing resolution was adopted. See Proceedings, 1916, p. 82.

As to dispensations on account of war service see resolution passed at seventeenth annual meeting. Proceedings, 1919, pp. 64-68.

At the seventeenth annual meeting a recommendation of the Executive Committee was adopted to the effect that hereafter no law schools should be admitted except upon the condition that neither they nor the universities with which they are connected should thereafter conduct night classes in law for students preparing for the Bar. See Proceedings, 1919, p. 90.

At the nineteenth annual meeting a recommendation of the Committee on Classification of Law Schools to admit night law schools complying with certain requirements was lost. [Proceedings, 1921, pp. 86-104.]

The section was amended in 1923. See Proceedings, pp. 50, 111. The present definition of full and part time schools was adopted in 1924. See Proceedings, 1924, pp. 47-50.

4. The conferring of its degree shall be conditioned upon the attainment of a grade of scholarship ascertained by examination.

Resolved, That no student should be unconditionally advanced from one class to a higher one without passing satisfactory examination upon the studies previously pursued by the former class. [Adopted. Proceedings, 1902, p. 7.]

It was the sense of the Committee that final examinations under the rule should not be considered as required in practice court and in courses involving the drafting of legal instruments, but that as to such courses as legal bibliography, a final examination might very well be expected. The general principle was declared to be that final examinations should be required in all courses reasonably susceptible thereto. [Exec. Com. Report, 1923.]

5. After September 1, 1923, students who enter with less than the academic credit required of candidates for the law degree by Section 2 of this Article, must be twenty-one years of age and the number of such students admitted each year shall not exceed ten per cent. of the average number of students first

entering the school during each of the two preceding years. [Adopted 1922. See Proceedings, pp. 54-63.]

Cf. resolution of 1922. Proceedings, pp. 156-158.

"It was voted as the sense of the Committee that Article VI, Section 5, would not apply to summer schools unless the summer session is an integral part of the year's program, as for instance in the case of universities which have adopted the quarter system. As regards other summer sessions, students who first enter at such sessions shall for purposes of the rule, if they attend a later regular session, be counted then as newly entering students." [Exec. Com. Report, 1923.]

6. It shall own a law library of not less than five thousand volumes, well selected and properly housed and administered for the use of its students. [As amended in 1924.]

See Proceedings, 1924, pp. 50, 51.

7. Its faculty shall consist of at least three instructors who devote substantially all of their time to the work of the school; and in no case shall the number of such full-time instructors be fewer than one for each one hundred students or major fraction thereof.

Adopted December 29, 1916. See Proceedings, 1916, pp. 67-80. Amended in 1924. See Proceedings, 1924, pp. 51-64.

8. Each member shall maintain a complete individual record of each student, which shall make readily accessible the following data: Credentials for admission; the action of the administrative officer passing thereon; date of admission; date of graduation or final dismissal from school; date of beginning and ending of each period of attendance, if the student has not been in continuous residence throughout the whole period of study; courses which he has taken, the grades therein, if any, and the credit value thereof, and courses for which he is registered; and a record of all special action of the faculty or administrative officers.

Adopted December 31, 1919. See Proceedings, 1919, pp. 87, 88.

Seventh. Any school which shall fail to maintain the requirements provided for in Article Sixth, or such standard as may hereafter be adopted by resolution of the Association, shall be excluded from the Association by a vote at the general meeting, but may be reinstated at a subsequent meeting on proof that it is then bona fide fulfilling such requirements.

Eighth. The officers of this Association shall be a President and a Secretary-Treasurer, who shall be chosen from among the delegates at each annual meeting, and each of whom shall hold office until his successor is elected.

Ninth. At each annual meeting there shall be chosen from among the delegates three persons to be members of the Executive Committee, who with the President and Secretary shall form such Committee. The Secretary

of the Association shall be Secretary of the Committee.

Tenth. The Executive Committee shall have charge of the affairs of the Association and is especially intrusted with seeing that the requirements of Articles Sixth and Seventh are complied with. All complaints shall be addressed to the Executive Committee, and shall be filed at least ninety days before the annual meeting of the Association. The Committee shall investigate all complaints and report its findings, with such recommendations as it shall think proper, to the Association for its action and shall make a report at the annual meeting. This provision shall not, however, prevent any matter being taken up and passed upon by the Association, except that no Law School shall be excluded from the Association under the Seventh Article unless the Executive Committee has given it thirty days' notice that it has in the opinion of that Committee failed to comply with the provisions of the Sixth or Seventh Article.

For discussion of the powers and duties of the Executive Committee under this section see Proceedings, 1906, pp. 114-129.

As to power of Executive Committee to pay expenses of committees, see Proceedings, 1921, pp. 136, 137.

"On motion it was voted that the Executive Committee be requested to print its report and mail it to the members of the Association at least twenty days before the annual meeting of the Association." Proceedings, 1901, p. 10.

Eleventh. Applications for membership shall be addressed to the Secretary accompanied by evidence that the school applying fulfills the requirements of Articles Sixth and Seventh. The Executive Committee shall examine the application, and report to the Association whether the applicant has fulfilled the requirements. Applications for membership shall be made at least sixty days before the meeting of the Association. [As amended 1923. See Proceedings, p. 49.]

Twelfth. The Executive Committee may conduct its business by correspondence.

Thirteenth. The officers and other members of the Executive Committee may be re-elected, but no school shall be represented on the Executive Committee for more than three years in succession, except that the Secretary-Treasurer may be re-elected indefinitely.

Fourteenth. The annual assessment on each school shall be forty dollars, payable in advance, and any school which shall have failed to pay its assessment during the year shall be dropped from the Association, but may be reinstated by vote of the Association upon payment of arrears.

Recommendation of the Executive Committee, April 18, 1915: "The committee voted to recommend that Article Fourteenth of the Articles of Association be amended by substituting the word 'twenty-five' for the word

'ten' so that it will read: 'Fourteenth. The annual assessment on each school shall be twenty-five dollars, payable in advance,' etc." This recommendation was modified at the December, 1915, meeting, by making the annual assessment twenty dollars. See Proceedings, 1915, p. 53. At the December, 1920, meeting, the annual assessment was fixed at thirty dollars. See Proceedings, 1920, p. 133. At the twentieth annual meeting, 1922, the annual assessment was fixed at forty dollars. See Proceedings, 1922, p. 54.

A recommendation of the Executive Committee on September 28, 1921, that "the annual assessment on each school shall be one hundred dollars (\$100), payable in advance, and any school which shall have failed to pay its assessment during the year shall be dropped from the Association, but may be reinstated by vote of the Association upon payment of arrears. The round-trip railway fare of one delegate from each school to the annual meeting shall be paid from the treasury of the Association, but such payment shall not be made for travel beyond the United States or the Dominion of Canada, or where no delegate has been in attendance" was lost, on a vote on December 29, 1921, at the nineteenth annual meeting. See Proceedings, 1921, pp. 31, 55-71.

Fifteenth. These articles may be changed at any annual meeting, the vote on such change shall be by schools, and no change shall be adopted unless it is voted for by two-thirds of the schools represented, nor unless it is voted for by at least one-third of all the members of the Association; provided, that no motion for an amendment shall be considered unless a copy of such proposed amendment be filed with the Secretary at least sixty days before the meeting and a copy thereof sent forthwith by the Secretary to each member. [As amended 1923. See Proceedings, p. 49.]

"Two-thirds of the schools represented" was held to mean, *represented in the vote* on the question before the convention. Proceedings, 1922, pp. 96-98.

MEMBERS OF THE ASSOCIATION

Boston University School of Law, Boston, Mass.
Catholic University of America School of Law, Washington, D. C.
Columbia University School of Law, New York City.
Cornell University College of Law, Ithaca, N. Y.
Creighton University College of Law, Omaha, Neb.
De Paul University College of Law, Chicago, Ill.
Drake University College of Law, Des Moines Iowa,

Emory University, Lamar School of Law, Emory University, Ga.
George Washington University Law School, Washington, D. C.
Harvard University Law School, Cambridge, Mass.
Hastings College of the Law, San Francisco, Cal.
Indiana University School of Law, Bloomington, Ind.
Louisiana State University School of Law, Baton Rouge, La.
Loyola University School of Law, Chicago, Ill.
McGill University Faculty of Law, Montreal, Canada.
Marquette University College of Law, Milwaukee, Wis.
Mercer University Law School, Macon, Ga.
Northwestern University School of Law, Chicago, Ill.
Ohio State University College of Law, Columbus, Ohio.
St. Louis University School of Law, St. Louis, Mo.
Stanford University Law School, Stanford University, Cal.
State University of Iowa College of Law, Iowa City, Iowa.
Syracuse University College of Law, Syracuse, N. Y.
Tulane University of Louisiana College of Law, New Orleans, La.
University of California School of Jurisprudence, Berkeley, Cal.
University of Chicago Law School, Chicago, Ill.
University of Cincinnati College of Law, Cincinnati, Ohio.
University of Colorado School of Law, Boulder, Colo.
University of Florida College of Law, Gainesville, Fla.
University of Idaho College of Law, Moscow, Idaho.
University of Illinois College of Law, Urbana, Ill.
University of Kansas School of Law, Lawrence, Kan.
University of Kentucky College of Law, Lexington, Ky.
University of Michigan Law School, Ann Arbor, Mich.
University of Minnesota Law School, Minneapolis, Minn.
University of Mississippi School of Law, University, Miss.
University of Missouri School of Law, Columbia, Mo.
University of Montana School of Law, Missoula, Mont.
University of Nebraska College of Law, Lincoln, Neb.
University of North Carolina School of Law, Chapel Hill, N. C.
University of North Dakota School of Law, Grand Forks, N. D.

University of Notre Dame College of Law,
Notre Dame, Ind.
University of Oklahoma School of Law, Nor-
man, Okl.
University of Oregon School of Law, Eugene,
Or.
University of Pennsylvania Law School, Phil-
adelphia, Pa.
University of Pittsburgh School of Law, Pitts-
burgh, Pa.
University of the Philippines College of Law,
Manila, P. I.
University of South Carolina School of Law,
Columbia, S. C.
University of South Dakota School of Law,
Vermillion, S. D.
University of Southern California, College of
Law, Los Angeles, Cal.
University of Tennessee College of Law,
Knoxville, Tenn.
University of Texas School of Law, Austin,
Tex.

University of Virginia Department of Law,
Charlottesville, Va.
University of Washington School of Law, Se-
attle, Wash.
University of Wisconsin Law School, Madi-
son, Wis.
University of Wyoming Law School, Laramie,
Wyo.
Vanderbilt University Law School, Nashville,
Tenn.
Washburn College School of Law, Topeka,
Kan.
Washington and Lee University School of
Law, Lexington, Va.
Washington University School of Law, St.
Louis, Mo.
West Virginia University College of Law,
Morgantown, W. Va.
Western Reserve University, Franklin T.
Backus Law School, Cleveland, Ohio.
Yale University School of Law, New Haven,
Conn.

AT THE Twenty-Second Annual Meeting of the Association of American Law Schools, held at the La Salle Hotel, Chicago, on December 29th, 30th and 31st, 1924, the roll call disclosed the following schools represented by the delegates named below:

Boston University School of Law: Melvin M. Johnson.

Columbia University School of Law: J. W. Cunleffe, Robert L. Hale, Roswell F. Magill, Thomas I. Parkinson, Richard R. Powell, Thomas Reed Powell, William Towson Taylor.

Cornell University College of Law: George G. Bogert, Charles K. Burdick, Robert S. Stevens.

Creighton University College of Law: L. J. TePoel.

De Paul University College of Law: Ralph S. Bauer, James J. Cherry, W. F. Clarke, Harry D. Taft.

Drake University College of Law: L. S. Forrest, Morton Hendrick, A. A. Morrow, Scott Rowley.

Emory University, Lamar School of Law: Paul E. Bryan, Joseph M. Cormack.

George Washington University Law School: Earl O. Arnold, Charles S. Collier, Henry W. Edgerton, Alvin E. Evans, Walter Lewis Moll, Hector G. Spaulding, Wm. C. Van Vleck.

Harvard University Law School: Joseph H. Beale, Zechariah Chafee, Jr., Manley O. Hudson, Nathan Isaacs, James A. McLaughlin, Calvert Magruder, Austin W. Scott, E. H. Warren.

Hastings College of Law: Maurice E. Harrison.

Indiana University School of Law: Charles

M. Hepburn, Paul V. McNutt, M. I. Schnebly, Hugh E. Willis.

Louisiana State University School of Law: Ira S. Flory, George Wilfred Stumberg, R. L. Tullis.

Loyola University School of Law (Chicago): John V. McCormick, F. J. Rooney, Sherman Steele.

Marquette University College of Law: John McDill Fox, Willis E. Lang, Max Schoetz, Jr., Carl Zollmann.

Mercer University Law School: Rufus C. Harris, D. H. Kerchner.

Northwestern University School of Law: Andrew A. Bruce, T. B. Crossley, Herbert Harley, Robert W. Millar, John H. Wigmore.

Ohio State University College of Law: Robert E. Mathews, Lewis M. Simes, Alonzo H. Tuttle.

St. Louis University School of Law: A. G. Eberle, Herbert D. Laube.

Stanford University Law School: Joseph W. Bingham.

State University of Iowa College of Law: Percy Bordwell, Henry Craig Jones, D. O. McGovney, O. K. Patton, Rollin W. Perkins.

Syracuse University College of Law: John W. Church, Ralph E. Himstead, Frank R. Walker.

Tulane University of Louisiana College of Law: E. J. Northrup.

University of California School of Jurisprudence: Orrin K. McMurray.

University of Chicago Law School: Ernst Freund, James Parker Hall, E. W. Hinton, Floyd R. Mechem, Philip Mechem, E. W. Puttkammer, Frederic C. Woodward.

University of Cincinnati Law School: George L. Clark, Charles E. Weber.

University of Colorado School of Law: Wm. R. Arthur.

University of Florida College of Law: Clifford W. Crandall.

University of Idaho College of Law: Robert McNair Davis.

University of Illinois College of Law: William E. Britton, Elliott Cheatham, George W. Goble, Frederick Green, Albert J. Harno, Francis S. Philbrick.

University of Kansas School of Law: H. W. Arant, John E. Hallen, Raymond F. Rice, M. T. Van Hecke.

University of Kentucky College of Law: W. Lewis Roberts.

University of Michigan Law School: Ralph W. Agler, Henry M. Bates, Joseph H. Drake, Sr., Evans Holbrook, E. B. Stason, J. B. Waite.

University of Minnesota Law School: W. H. Cherry, Everett Fraser, Thomas C. Lavery, H. L. McClintock, R. Justin Miller, James Paige.

University of Missouri School of Law: G. V. Head, S. I. Langmaid, J. P. McBaine, J. L. Parks, James W. Simonton.

University of Nebraska College of Law: E. Merrick Dodd, Jr., W. A. Seavey.

University of North Carolina School of Law: Merton L. Ferson, Robert H. Wettach.

University of North Dakota School of Law: Thomas E. Atkinson, W. E. Burby, O. P. Cockerill.

University of Notre Dame College of Law: Edwin W. Hadley, Thomas F. Konop, Dudley G. Wooten.

University of Oklahoma School of Law: John B. Cheadle, Joseph F. Francis, Victor H. Kulp.

University of Oregon Law School: Sam B. Warner.

University of Pennsylvania Law School: Francis H. Bohlen, Edwin R. Keady, Wm. Draper Lewis, W. Foster Reeve, III, Austin T. Wright.

University of Pittsburgh School of Law: W. J. Brockelbank, John G. Buchanan, William H. Eckert, James P. Herron, A. M. Thompson, George Jarvis Thompson.

University of South Carolina School of Law: J. Nelson Frierson, E. Marlon Rucker.

University of South Dakota College of Law: L. W. Feezer, Marshall McKusick.

University of Southern California College of Law: Paul W. Jones, Frank W. Porter.

University of Tennessee College of Law: Robert M. Jones, Raymond J. Heilman.

University of Texas School of Law: W. F. Bobbitt, Ira P. Hildebrand, Charles T. McCormick, E. Karl McGinnis, W. A. Rhea.

University of Virginia Department of Law: W. M. Lile.

University of Wisconsin Law School: Frank T. Boesel, Ray A. Brown, Arnold B. Hall, W. H. Page, W. G. Rice, Jr., H. S. Richards, Oliver S. Rundell, John B. Sanborn, Kenneth C. Sears, John D. Wickhem.

University of Wyoming Law School: J. G. Driscoll, Jr., Charles G. Haglund.

Washburn College School of Law: Harry K. Allen.

Washington University School of Law: Charles E. Cullen, Bryant Smith, Tyrrell Williams.

West Virginia University College of Law: Edmund C. Dickinson, J. W. Madden, Clifford R. Snider.

Western Reserve University, Franklin T. Backus Law School: M. S. Breckenridge, W. T. Dunmore, C. M. Finrock.

Yale University School of Law: Charles E. Clark, Walter W. Cook, Arthur L. Corbin, John Fletcher Caskey, K. N. Llewellyn, E. M. Morgan, Wesley A. Sturges, Thomas W. Swan, Edward S. Thurston, William R. Vance.

Guests of the Association

American Bar Association: Theodore Francis Green.

American Law Institute: Fred G. Krivonos.

Baylor University Law School: Allen G. Flowers.

Knox College: John M. Baker.

New Jersey Law School: Alison Reppy, L. O. Strickland.

St. Paul College of Law: Oscar Hallam.

University of Alabama Law School: W. D. Rollison.

University of Maryland Law School: Robert H. Freeman.

Westminster Law School: Hamlet U. Barry.

Youngstown Law School. Theodore A. Johnson.

Member Schools Not Represented

Catholic University of America School of Law.

McGill University Faculty of Law.

University of Mississippi School of Law.

University of the Philippines College of Law.

University of Washington School of Law.

Vanderbilt University Law School.

Washington and Lee University School of Law.

REPORTS OF COMMITTEES

THE EXECUTIVE COMMITTEE

The Executive Committee submits the following report for the year 1924:

1. Two regular meetings have been held. These were scheduled for Ann Arbor in May and October.

2. Inspections of a number of member schools were ordered. As to some of these reports have been made and considered by the Committee. An inspection of Dickinson School of Law disclosed that there were failures in grave particulars to comply with the Articles of Association. Upon the attention of the member being called to this report,

its resignation was submitted. The Committee herewith recommends the acceptance of the withdrawal from membership of Dickinson School of Law.

3. At the last annual meeting there was adopted a resolution looking toward the scheduling of the meeting for the present year in St. Louis. There was another resolution, however, to the effect that the members of the Executive Committee after getting all possible information should use their best judgment as to the place of meeting. Each member of the Committee personally felt a strong appeal in the way of holding the 1924 meeting at some place other than the one at which the meetings have been held for the last ten years. It was, however, the unanimous judgment of the Committee that it would not be to the best interest of the Association to make the change. The meeting was, therefore, arranged for Chicago as usual.

4. Attention has been given to the practice which seems to prevail at some of the member institutions of transferring students from the special class to regular standing, thus permitting such students to become candidates for a degree. Question has been raised as to whether, under the Articles of Association, this practice is permissible. The Committee are rather disposed to think that the Articles of Association do not permit this to be done, but feel that the matter is not entirely free of doubt. It is, therefore, suggested that the Association at the annual meeting discuss this problem. Either the rules should be amended so as to permit the practice, perhaps in a very limited class of cases, or it should be made perfectly clear that such transfer shall not be permitted.

5. Applications for membership have been received from a number of law schools. Reports as to these, together with the Committee's recommendations thereon, will be submitted at the time of the meeting.

6. The Committee submit the following recommended changes in the Articles of Association:

Article Sixth, Section 3, paragraph 1.

The addition of the following sentence at the beginning:—

"A school whose curriculum and schedule of work are so arranged that in the opinion of the Executive Committee substantially the full working time of its students is required for the work of the school shall be considered a full-time school."

Article Sixth, Section 3, paragraph 2.

(a) In place of the first sentence there be substituted:

"A school whose curriculum and schedule of work are so arranged that in the opinion of the Executive Committee substantially the full working time of its students is not required for the work of the school shall be considered a part-time school."

(b) The word "paragraph" be substituted for the word "subsection" in the sixth line.

Section 6 of Article Sixth be amended to read as follows:

"It shall own a law library of not less than five thousand volumes well selected and properly housed and administered for the use of its students."

Section 7 of Article Sixth be amended to read as follows:

"Its faculty shall consist of at least three instructors who devote substantially all of their time to the work of the school; and in no case shall the number of such full-time instructors be fewer than one for each 100 students and fraction thereof."

Respectfully submitted,

Ralph W. Aigler, Secretary.

THE COMMITTEE ON CURRICULUM

Your committee has made a survey of the present opinion among member schools as regards the kinds, as opposed to the quantity or grade, of work which should be required by member schools for admission thereto. A questionnaire was sent and the most interesting responses were made to the two following questions:

a. Should any particular course be required by the Law School for admission to the Law School?

b. If so, name or describe briefly the courses which, in your opinion, should be required.

The outstanding fact as to the returns is that, of the forty-three schools which responded to the questionnaire, thirty-one stated unqualifiedly that the law school should require no particular course for entrance while twelve answered the first question in the affirmative.

Of the twelve who would require some course, five would require English only and one Latin only. Six would require some of the various courses in the tabulation which follows.

Of the thirty-one who would require no course, fourteen would nevertheless recommend some of the various courses included in a tabulation which follows, while seventeen make no suggestion as to any course or courses to be recommended to students intending to study law.

The courses which twenty-six out of forty-three schools responding would require or recommend are listed below. The number following each course is the number of times it was mentioned as a proper course to be required or recommended as the case may be.

A. Social Science 63

1. History 28

- a. American History 6
- b. English History 9
- c. Constitutional History 7
- d. Unspecified 6

2. Political Science 14
3. Economics 18
 - a. General, or unspecified 14
 - b. Accounting 4
4. Sociology 3
- B. English 28
 1. Composition 18
 2. Public Speaking 7
 3. English Literature 2
 4. American Literature 1
- C. Science 24
 1. Mathematics 7
 2. Physics 3
 3. Chemistry 3
 4. Psychology 2
 5. Zoology 1
 6. Botany 1
 7. Geology 1
 8. Astronomy 1
 9. Unspecified 5
- D. Languages 17
 1. Latin 10
 2. French 3
 3. Spanish 1
 4. Unspecified 3
- E. Philosophy
 1. General Philosophy 5
 2. Logic 6
 3. Ethics 2
 4. Religion 1

This survey seems to indicate that there is a substantial opinion to the effect that the kind of prelegal training is no part of the problem of the law school, and that as to the contrary opinions there is no substantial expert judgment in agreement concerning what such training should be as indicated by the wide variety of subjects named. In many cases the listing of the subjects seems to represent merely the writer's opinion as to what constitutes sound general education for the law or for any other purpose.

A more detailed tabulation of the data, prepared for the Committee by Professor Keedy, is available.

Herman Oliphant, Columbia University,
Chairman.

COMMITTEE ON REFORM OF LEGAL PROCEDURE

Your committee reports that the original subject committed to it, viz. the preparation of adequate source materials on reformed methods of Civil Procedure, has proved to be impracticable at the present, as indicated in prior reports of the Committee; and that no other subject has been committed, nor is the Committee, as at present constituted, moved to make any proposals within the scope of its title.

Your Committee, therefore, recommends that it be discharged.

John H. Wigmore, Chairman.
Herbert Harley,
E. W. Hinton.

GENERAL SESSIONS

First Session

Below is given the principal part of the discussion at the First Session, held at the Hotel La Salle, on the morning of December 29, 1924.

The Twenty-Second Annual Meeting of the Association of American Law Schools was called to order in the Ball Room of the Hotel La Salle, Chicago, Illinois, December 29, 1924, at 11:00 a. m., President William Draper Lewis presiding.

President Lewis: It is my duty at this time to appoint two committees, an Auditing Committee and a Nominating Committee. Unless there is objection, I shall proceed to appoint three members for the Auditing Committee and five members for the Nominating Committee.

On the Auditing Committee I will appoint:

J. B. Cheadle, of Oklahoma;

R. McN. Davis, of Idaho;

W. M. Lile, of Virginia.

On the Nominating Committee I will appoint:

F. C. Woodward, of Chicago;

A. L. Corbin, of Yale;

J. W. Bingham, of Leland Stanford;

W. A. Seavey, of Nebraska;

E. J. Northrup, of Tulane.

The next item is the report of the Executive Committee.

Secretary Aigler: You will observe that there is a report of the Executive Committee printed in the program [see page — of this magazine]. In addition to the statement there made with reference to Dickinson, this should be added, that Dickinson has withdrawn from membership in the Association.

Now, with reference to the matter of new members, during the year a considerable number of applications for membership have come to the Committee. We are prepared at this time to report on five, the applications of De Paul University College of Law, St. Louis University School of Law, Louisiana State University School of Law, University of South Carolina School of Law, and Notre Dame University School of Law. De Paul and St. Louis are two applicants coming under the action taken last year with reference to institutions giving full and part time work. These two schools have been inspected on behalf of the Executive Committee and the Committee recommends their election to membership. I bracket those two together because they are the two that involve the matter of part-time work. The Committee has satisfied itself that these schools comply with the requirements for membership in the Association and therefore recommend their election.

Mr. President, I move that these two schools be elected to membership.

President Lewis: We had better vote on those separately. It has been moved that De Paul University be admitted as a member of this Association. The motion has been seconded. [The question was put and carried.]

The next is St. Louis University. It has been moved that St. Louis University be admitted to membership in this Association. [This motion was duly seconded and carried.]

Secretary Aigler: I might say with reference to Louisiana what I have already said with reference to the two schools that have been mentioned, and I might include also the remaining two, South Carolina and Notre Dame, that they have been inspected—personal inspection, I should add, on behalf of the Executive Committee. The Committee has satisfied itself that these schools are now eligible for membership and we recommend their election.

President Lewis: We had better vote on these separately, gentlemen.

It has been moved that Louisiana University be admitted to membership. [The motion was seconded and carried.]

It is moved that South Carolina University be admitted to membership. [The motion was duly seconded and carried.]

It is moved that Notre Dame University be admitted to membership. [The motion was duly seconded and carried.]

President Lewis: The next item here is that of amendments to the Articles of the Association.

Secretary Aigler: These two, gentlemen, are printed in the Report of the Executive Committee, beginning on page 10.¹ The first amendment applies to Article VI, Section 3, paragraph 1, which at present reads this way: "A full-time school shall require of its candidates for the first degree in law resident study of law during a period of at least ninety weeks, and the successful completion of at least 1,080 hours of classroom instruction in law."

The amendment submitted and recommended by the Executive Committee is as follows: That this sentence be inserted at the beginning: "A school whose curriculum and schedule of work are so arranged that in the opinion of the Executive Committee substantially the full working time of its students is required for the work of the school shall be considered a full-time school."

The amendment, then, is in the way of an addition of that which I have last read to precede that which I read earlier.

The next amendment couples with this. Perhaps I should bring that up also at this time. That is with reference to paragraphs 2 of this same Section 3 of Article VI. That second paragraph now reads: "A school whose instruction is chiefly given after 4:00 p. m., or which regularly requires less than twelve hours a week of class work from its

students, shall be considered a part-time school. A part-time school must maintain a curriculum which in the opinion of the Executive Committee is the equivalent of that of a full-time school. The action of the Executive Committee under this sub-section shall in each instance be reported to the Association at its next annual meeting and shall stand as the action of the Association until set aside by a vote of the majority of all the members of the Association." That is the present paragraph 2 of Section 3 of Article VI.

We propose to substitute in place of the first sentence, which purports to be a definition of a "part-time school," as you will recall, that is, one in which the instruction is given chiefly after 4:00 p. m., or which regularly requires less than 12 hours a week class work,—we propose to substitute for that sentence this: "A school whose curriculum and schedule of work are so arranged that in the opinion of the Executive Committee substantially the full working time of its students is not required for the work of the school shall be considered a part-time school."

I suppose there isn't need for much to be said as to the reason for our proposing these amendments. The Committee felt that the definition of a part-time school as given in the first sentence of that second paragraph was not adequate. It ties up with merely formal matters, namely, the time of the day at which the instruction is given—chiefly after 4:00 p. m., and, too, the number of hours per week of regular class work. We felt that there should be a little more elasticity. To be sure, it gives to the Executive Committee a little more power, because it will be that Committee that shall have to determine whether a school is a full-time school or a part-time school—a question of administrative discretion, I take it.

There is another amendment to this which is purely textual, the substituting of the word "sub-section" for the word "paragraph" in the sixth line, as to which I suspect there won't be any discussion or question. There may, however, I assume, be some discussion with reference to the amendments which I have read.

President Lewis: Is it your desire that these amendments proposed by the Executive Committee to Article VI, Section 3, be dealt with altogether and voted on altogether or voted on separately? [Member says separately.] If it is the desire to deal with them separately, I will put the first one, the addition of the following sentence at the beginning of Article VI, Section 3, paragraph 1: "A school whose curriculum and schedule of work are so arranged that in the opinion of the Executive Committee substantially the full working time of its students is required for the work of the school shall be considered

¹ See page 482 of this magazine.

a full-time school." May I have a motion with regard to that particular section of the Executive Committee's report?

[Moved the amendment be adopted as read. Seconded.]

The Secretary reminds me that the vote has to be by roll call.

Secretary Aigler: I wonder whether, in view of that fact, they might not want to vote on the two or perhaps three amendments to Article VI, Section 3, together.

[It was moved that the Convention vote on all of them together. That discussion be allowed on each separately, but that there be no more than one roll call.]

Mr. Swan: I move you that the rules be suspended and that we vote on these amendments in the usual way, without a roll call vote.

President Lewis: I am afraid I shall have to rule, Dean Swan, that that can't be done. They can be voted on, unquestionably, under one roll call, if that is the desire, and that, as I understand it, is the motion before the House. Therefore, all in favor of that motion please say "aye." [The motion was carried.]

We will vote on all of these amendments to Article VI at one time, then. That motion is now before us.

Secretary Aigler: I am not sure that I understand the situation. The only amendments that I have called to your attention are the amendments to Section 3 of Article VI. There are two other amendments to Article VI, but dealing with other sections.

President Lewis: There are certain amendments here, printed on page 10² and the first three lines of page 11² of this program, which contains the report of the Executive Committee, and what we are now voting on, gentlemen, are the ones to Section 3, Article VI.

Mr. Davis: I have been studying all four of these propositions. Why not have one roll call and allow them to vote "yes" or "no"?

President Lewis: I have received notice before the meeting that on one of them there is to be quite a little discussion, and they do bring up, especially the seventh one, quite a different situation. Oh, you mean the fourth here in regard to Section 3?

Mr. Davis: Yes.

President Lewis: Mr. Secretary, I will ask you to explain that so that it may be intelligible as to whether this should be contained in the vote along with the others.

Secretary Aigler: The amendment proposed to Section 6 of Article VI with reference to the library you will observe reads this way: "It shall own a law library of not less than five thousand volumes." That is the way it reads at present. The proposal is to add to that the words that appear in the report of the Committee, "well selected and properly housed and administered for the use of its

students." The Executive Committee has been administering that requirement as if that language were in there. We felt that we were not exceeding our proper powers in doing that. But to avoid any possible question we now propose that that be stipulated in the articles.

President Lewis: In order that we may vote intelligently as to whether we should vote on all four of these or only on the first three, I am going to ask whether there is any discussion desired on this last amendment which has been read by the Secretary in reference to the library.

Mr. Beale: I don't desire to discuss that clause, but I wish in connection with it to bring up for reference to the Executive Committee of next year the possibility or the desirability of making an increase in the requirement of the number of books for the library. The number of five thousand was adopted twenty years ago and more. During that time I suppose the number of law books has doubled and the number of five thousand seems now to some of us rather inadequate for a library. Without, therefore, in any way discussing the proposed amendment, I should like to offer later the motion that the incoming Executive Committee consider raising the requirement as to the number of volumes.

President Lewis: If Mr. Beale desires to make a motion on that question, that will come up after we dispose of these amendments.

Now, is it your desire to press the motion that all four of these be considered at one time?

Mr. Davis: I believe that we could very well have only one roll call, considering each motion separately, and discussing them separately. I make that motion. [Seconded.]

President Lewis: Any remarks?

[This motion was carried.]

Now, gentlemen, do you desire any discussion before the roll call is taken on any of these amendments? If not, and you are ready for the roll call, having gotten together, the Secretary will call the roll.

Secretary Aigler: You will observe that this roll call is on the adoption of the first four proposed amendments. We are voting on all but the last one, which deals with the matter of faculty.

[Secretary Aigler called the roll and announced the vote as unanimously in favor of the adoption of the amendments.]

President Lewis: Those amendments have all been adopted.

Mr. Secretary, will you explain the last recommendation of the Executive Committee in regard to the Constitution.

Secretary Aigler: The last proposal deals with the faculty. The present Section 7 of Article VI reads: "Its faculty shall consist of at least three instructors who devote sub-

² See page 482 of this magazine.

stantially all of their time to the work of the school. Provided that as regards members of this Association this shall take effect September 1, 1919."

The proposal is that that shall be changed to: "Its faculty shall consist of at least three instructors who devote substantially all of their time to the work of the school; and in no case shall the number of such full-time instructors be fewer than one for each 100 students and fraction thereof."

Perhaps this may not be quite applicable to the problem immediately before us, but it may be worth while to state that the members of the Executive Committee would like it to be known that they do not consider that a faculty consisting of three men and no more, either full or part time, is an adequate faculty.

It has come to our attention that there seems to be a disposition in some quarters to look upon it that way. I move, Mr. President, the adoption of this amendment.

[Seconded.]

President Lewis: Is there any discussion?

Mr. Van Vleck: I just wanted to ask a question. We are, by virtue of new requirements, reducing our registration yearly, and I want to ask just what year would furnish the measure of the number of the faculty. We have 940 registrations this year. Next year we shall have less than 900, very probably. What will be done under this rule in case a school's expectations of registration are disappointing and it finds a larger registration than it anticipated, and it would be impossible to get new members of the faculty on such short notice? It seems to me that some discretion ought to be left in the hands of the Executive Committee, so that the school that welcomes this requirement as a means of getting more full-time teachers would not find itself in difficulties with the Association. That is a real problem with us, because we have eight now; we want nine.

President Lewis: To answer the gentleman's question, I should say that if this amendment as here worded were adopted, the Executive Committee would have the technical right to report to the meeting an infraction of the rule, even if it were violated next year. On the other hand, the universal practice of the Executive Committee has been where a school is in sympathy with the rule and is meeting a difficult situation, to co-operate with that school and not create an issue merely for the purpose of raising it. But if you do pass this amendment as it has been proposed, you leave that discretion to the Executive Committee, which would give them the right to report an infraction, even though it occurred next fall.

Mr. Van Vleck: I am not quite clear whether this year's registration is to be used under that rule or next year's registration.

President Lewis: I don't know whether I

have any right to interpret that, as President. My own personal interpretation would be that it was not retroactive in effect; that really this rule couldn't be considered as being for any practical purposes in force until the registration for next year came in.

Mr. Green (Illinois): Our faculty voted after considerable discussion to withhold approval of so much of this amendment as requires that there must be one full-time instructor for every 100 students, exactly for the reason that has been stated by the last speaker. It seems to us that it might operate to exclude a school that was really a first-class school. For illustration, when I was in Harvard Law School it was considered, I think, a tolerably good law school. I believe I am right in saying at that time neither Professor Beale nor Professor Williston were considered full-time instructors. It seems to me that this rule is arbitrary and likely to work an injustice. I don't think we ought to have more rules of exclusion than are necessary, and it seems to me that we ought to be able to take care of the situation in another form.

Mr. Beale: I have taught in Harvard Law School for 33 years, and this is the first time I was ever accused of not being a full-time instructor. So far as I am aware, there never was a time when I was not. There were four years when Mr. Williston was not a full-time instructor. At the end of that time he broke down, and since that time he has found it not only to the advantage of the school, but to his own advantage, to be a full-time instructor in law.

Mr. Hepburn: If I understand the change, a school with an enrollment of 400 students would require only 4 full-time instructors. With an enrollment of 400 students, there could hardly be less than 150 in the first year class, perhaps more than 150 if the proper weeding out process was applied to the first year. With only four instructors, you couldn't divide the first year class into sections. Now, it seems to me that we cannot reach, in the way that we should reach, the members of the first year class if the classes are as large as 150 in the first year.

This question, according to my recollection, was carefully considered in the American Bar Association. My recollection is that the resolution adopted by an overwhelming majority in Cincinnati in 1921, one of the resolutions, was to the effect that every faculty of a law school recognized as eligible to a Class A classification in the American Bar Association must have a faculty so large that the members of the faculty can reach individually, with their personal influence, the members in their classes. Is it possible to do that with first year men and a class of first year men as large as 150?

I would like to see an amendment to this proposed change and provide that in no case

shall the number of such full-time instructors be fewer than 1 for each 50 of the students.

President Lewis: I understand that amendments have to be written out:

Mr. Hepburn: I will undertake to write that out.

President Lewis: Any further remarks, gentlemen? Are you ready to have a recess before voting?

Mr. Edgerton: I would move as an amendment the insertion of the word "major" before the word "fraction," so that the last clause would read "fewer than one for each 100 students and major fraction thereof," on this theory: That starting with the assumption that for 100 students in general there ought to be an instructor, the amendment as it is printed would require the addition of an instructor every time the school increased by 2 or 3 students, if the 2 or 3 happened to carry over the 100 mark. Wouldn't it be better to have it arranged so it would require an increase of 50 students instead of 2 or 3 in order to require the addition of another instructor?

[Amendment seconded.]

President Lewis: My understanding is, unless there is an objection to the ruling, that if you vote by voice that way, then when we come to call the roll the question will be on the adoption of the amendment with that word in, or any other words in that may be put in by the future amendment. If there is no objection to that course, I shall put the question on the insertion of the word "major" before the word "fraction."

Mr. Holbrook: I would like to suggest to Mr. Edgerton that that might better be "or major." It seems to me that as it reads, if a school has 350 students, it requires only three instructors, because it would then have one professor for each 100 students and major fraction. If it reads "or major fraction," it seems to me that it would be more clear.

Mr. Edgerton: Mr. President, I accept the amendment.

President Lewis: The suggestion is that this wording shall read "100 students or major fraction thereof."

[The motion was carried.]

When the question is finally put to the roll call vote, that will be regarded as the way in which the amendment comes before the meeting for voting.

Is there any more discussion on the amendment itself?

Mr. Wigmore: I know of no way in which this particular amendment affects any selfish interests of the school with which I am concerned, but I look with deep concern on any attempt of this Association to dictate in the selection of members of the faculty. Whether this be wise or not doesn't for the moment interest me very much, but I would like to see enough independence and self-determination left in every self-respecting school that

belongs to this Association to enable it to remain free from the rule of the majority. I am against the referendum. I am against any attempt to let a popular assembly control the life and ideals of the individual. I think if this Association begins to dictate now in this manner, it may go on. I am reluctant to see it enter upon that path.

Mr. Hepburn: I have reduced my amendment to writing. I would like to submit it again for the sake, possibly, of getting the reaction. The proposed amendment will read thus: "—and in no case shall the number of such full-time instructors be fewer than one for each fifty students or major fraction thereof."

[The motion was seconded, but lost on vote.]

President Lewis: Mr. Hepburn, you have your reaction.

Now, gentlemen, is there any further discussion at this point? I beg to remind those present that here is no desire to hurry the discussion. It is an important question, which you can deal with by voting against it, or by voting it in, or by postponing it, or in any other way that you choose. Do you consider you have had enough discussion?

Mr. Davis: I would like to ask the gentleman from Boston University what their enrollment is.

Mr. Thompson (Pittsburgh Law School): It seems to me it is out of harmony for this Association to take action at this time, in view of the action taken in 1921 by the American Bar Association. I would move an amendment in place of the clause under discussion, that there shall be at least sufficient full-time instructors to assure individual contact with the student body, or other words that will bring us in harmony with the action of the American Bar Association, leaving the determination to the Executive Committee. Put that right after the semicolon: "—but there shall be at least sufficient full-time instructors to assure individual contact with the student body." Or other words which would bring us in harmony with the American Bar Association's action in 1921.

[Motion seconded.]

Mr. McMurray: This whole amendment seems to me to be framed for the purpose of supplementing the action of the American Bar Association. The American Bar Association is expressing an ideal. It is up to this Association to give it some force as law. Now, it seems to me that a statement that uses such a general and broad phrase as has been suggested in the amendment leaves it to the Executive Committee to exercise an amount of discretion that is too hard for human nature to be forced to exercise. The rigid system proposed in the amendment, somewhat rigid, has been criticized upon that ground, does afford a standard by which the Executive Committee may act. It still leaves plenty of

room for interpretation. A full-time professor,—I don't know whether he has ever been defined,—some of us here seem to have an ideal of efficiency that exceeds the ordinary strain of human nature. I suppose there is still room, even in the legal profession, for improvement. At any rate, the question of what constitutes a full-time professor I have no doubt will be interpreted by the Executive Committee and by this Association in a liberal manner. Our past certainly hasn't shown any tendency to use tyrannical or arbitrary methods in dealing with the questions of interpretation which have come before us. I should think it would be extremely desirable. I have no doubt that Boston University, from what the gentleman representing that school says, would, in the minds of a reasonable body, qualify as meeting these requirements. We are here presented with a very important matter; it seems to me a vital matter. I think this Association ought to go on record as attempting to put into legislation that which the American Bar Association has recommended.

Mr. Sanborn: Without speaking for or against this last amendment, I suggest that we might have the exact wording of the Bar Association requirement in case the Association desires to adopt it, and it is this: "It shall have among its teachers a sufficient number giving their entire time in the school to insure actual, personal acquaintance and influence over the whole student body." I suggest that as a substitute for the wording there.

Mr. Thompson (Pittsburgh): I accept that.

President Lewis: The second is presumed also to accept it, and we will regard that as the question before the House.

Mr. Davis: It seems to me the proposed amendment makes the main amendment more rigid than ever, using the word "entire" instead of "substantially all their time." Now, I believe that Boston University has more than four full-time professors, as explained by the representative of that school, but the wording of the American Bar Association requirement is still more rigid. I shall vote against the proposed amendment to this amendment.

Mr. M. M. Johnson: There being so many views which have been discussed, and the situation having been somewhat cleared by the discussion, wouldn't it be wise to re-commit this matter to the Executive Committee for further consideration and report next year. I so move.

[Seconded.]

President Lewis: I assume that that amendment takes precedence over amendments designed to perfect the wording, though I have some hesitation in that ruling. We are a little off from ordinary parliamentary procedure here, dealing with rather a novel situation; but if there is no objection, I will

consider the amendment last made to refer this matter back to the Executive Committee for further consideration as before the House. Is there any discussion of that motion?

[Upon the first vote the President was undecided as to the outcome. Upon a showing of hands, the outcome was 65 in favor of it and 44 against.]

I think I ought to say that in view of the light here I personally may have made a mistake in one or two of the votes, but I think it is sufficient difference not to make any possible error sufficient to change the result, and therefore the matter is referred back.

Mr. Scott: It seems to me we are as well prepared now as we will be at any future time. I ask for a roll call by schools on this proposition.

President Lewis: Receiving my instructions from the Secretary on this difficult parliamentary point, I understand that it is proper for the representative from Harvard to make this request now on the motion which has just been made by the representative from Boston University, and therefore we will vote by schools.

We are voting on the motion to refer this matter back to the Executive Committee for a further consideration, and if you vote on this matter, a majority vote "aye," that of course disposes of all the other motions in connection with it.

Secretary Aigler: I think it proper also for me to say because of some questions that have been asked me, that the Executive Committee did not have any school or schools in mind in proposing this amendment. We carefully refrained from making any inquiries as to whether it would affect any school. We wanted the matter to be considered as we considered it, a question of fundamental policy of legal education, not in its influence on this, that or the other school.

[Secretary Aigler called the roll, the result being 24 in favor of the re-commitment and 29 against it, the motion being lost.]

President Lewis: Now, gentlemen, that brings up the motion last made to amend so as to adopt the wording of the American Bar Association in place of the requirement of a definite mathematical fraction. Mr. Sanborn, will you read that again.

Mr. Sanborn: "It shall have among its teachers a sufficient number giving their entire time to the school to insure actual, personal acquaintance and influence over the whole student body."

Mr. Thompson: Instead of saying that, say "shall have sufficient full-time instructors," as is used here, because that relates to the first part of the amendment.

President Lewis: How is it that you desire it worded, exactly?

Mr. Thompson: I will confer with Mr. Sanborn on that.

Mr. Sanborn: I have the change that Mr.

Thompson desires here. He desires to change from the Bar Association's draft so that instead of using "entire" you put in the words, "substantially all of their," so it shall read, "a sufficient number giving substantially all of their time."

President Lewis: Now, gentlemen, I think we have gotten that so that you can vote on it one way or the other, and of course you are voting on it by voice. It merely changes the question which will be put for the roll call. Is there any discussion?

Member: I would like to ask if the motion is so framed now that the matter is left to the Executive Committee? Does it provide that the Executive Committee shall determine whether this rule is complied with?

President Lewis: Yes, except that the Executive Committee, if this motion is carried, and then the amendment should be carried, would not be required to investigate whether they had a full-time instructor for every 100 students, but whether they had a sufficient number of full-time men in view of the circumstances, I suppose, really to insure that personal contact.

Member: But it is formally referred to the Executive Committee to pass on that.

Mr. Porter: Does the amendment take the place of the whole paragraph or merely the proposed amendment to the paragraph?

President Lewis: It merely takes the place of the proposed amendment to the paragraph. None of these amendments affect the rule which is now standing concerning three full-time men.

Mr. Van Vleck: Our only objection to this amendment is that it takes away for us all the usefulness of the rule. The rule to us is valuable, because it enables us to get the additional full-time instructors that we want. The word "adequate" is so indefinite that it is very difficult to convince the university administrative officers that we haven't a sufficiently adequate number already. That is the reason for our holding against it.

Mr. Wigmore: Are we voting on the merits of the question now or only on a local amendment?

President Lewis: I am afraid I will have to let the assembly decide that, Dean Wigmore.

Mr. Wigmore: Are we voting on the motion to amend the Constitution finally now?

President Lewis: No, no; let us make this perfectly clear; it is merely to change the wording of the amendment as proposed by the Executive Committee. That vote, if it is a vote in the affirmative, will not in any wise produce any amendment, but we will then call the roll on the entire amended seventh article, not as proposed by the Executive Committee, but as amended at this meeting.

Now, gentlemen, are you ready for the question?

Mr. McMurray: You are just adding to

what we have had. This does go, in a sense, to the merits of the matter. That is, the question presented is whether we want this general standard to guide the Executive Committee or whether we want a perfectly definite standard based on numerical values.

[The question was put and the motion lost.]

President Lewis: We come back again to the amendment as proposed by the Executive Committee, with the change which was adopted in the last line, making the last line read, "—than one for each 100 students or major fraction thereof." Are you ready now to give any further discussion on that amendment? Are you ready for the roll call after the usual minute or two for consultation? Do you need a consultation, inasmuch as the hour is so late?

Mr. Wigmore: Is there an opportunity to be given for remarks on the main issue?

President Lewis: I have no desire to cut off remarks on the main issue. That is what I was calling for, but I didn't catch your request.

Mr. Wigmore: Mr. President, I am hoping against hope that you will not permit the Association at this moment, after an hour or so of discussion on a subject which involves the entire history of the Association to take this action. The first official professor of law in the world's history was Papinian, a great practitioner, and a thousand years later Bartolus, a man about whom my friend the dean here wrote a whole book, the most famous professor of his day, was also the greatest practitioner. And as you come down the ages, you will find that the practitioners have had everything to do with the teaching of the law.

It may well be that we should commit ourselves, but I have not noticed in the last two or three years that the subject has been ventilated before this Association or in current legal discussions, and it seems to me that it is not worthy of the dignity of this Association to commit itself on a matter which goes to the root of the whole question of the composition of law faculties after an hour or two of discussion over a report presented after a discussion by an Executive Committee.

[Secretary Aigler called the roll on the question.]

President Lewis: Gentlemen, I have to remind you that there is one more matter of business which should be cleared out in about three minutes, if you will remain.

The Secretary will announce the result of the vote.

Secretary Aigler: The vote stood 38 in favor of adoption; 15 against.

President Lewis: The amendment stands adopted as part of the Constitution.

Now, gentlemen, there is one other item on this report of the Executive Committee which the Secretary tells me might possibly create

a little discussion. Therefore, a motion to postpone that until the final meeting of the Association this year would be in order, I think, in view of the lateness of the hour.

[This motion was made, seconded and carried.]

Upon motion, duly seconded and carried, the session was adjourned at 1:15 p. m., to re-convene at 2:30 p. m.

Second Session

The Second Session opened on Monday, December 29th, at 2:45 p. m., with the address of the President, Mr. William Draper Lewis. The address, entitled "The Law Teaching Branch of the Profession," is given in full on page 447 of this magazine. The discussion following the President's address is given below. Below is also given the discussion of the address of the Hon. George Wickersham, entitled "The Classification and Restatement of International Law," which is given in full on page 455 of this magazine.

President Lewis: The two papers are now open for discussion. The two persons who have been asked to lead that discussion, as stated before, are Mr. Beale and Mr. Bates. Mr. Beale, I will recognize you.

Mr. Beale: Mr. President and members of the Association: To any one who has long associated with the distinguished President and the distinguished Director of the American Law Institute, it is commonplace to say that he agrees with every word that they can say, for their careful thought, their devotion to any subject that they take up and their illuminative common sense touch every subject in such a way that one can't disagree.

Accordingly, let me say at the start of this discussion that in my opinion there cannot be much discussion, because both papers are absolutely right. There may, however, be a few things worth saying about them.

In the first place, they seem to me both to indicate a belief that the next step ahead for law schools is the systematic, scholarly pursuit of legal research. I do not believe that we can continue a successful teaching of the law unless we now devote ourselves thoroughly to the study of present day legal problems, to the study, I mean, as part of the actual work of our law schools. And I welcome any such forceful presentation of the need of that kind of scholarship.

We have learned everything from the bench and the bar. The work of the bench and the bar is absolutely essential to our work as teachers of law. It is comforting to think that we can repay our debt in some slight degree by helping in our little way the

labors of the bench and the bar, and I believe we can, and if we can, we must.

Mr. Lewis says, "Should we have for that purpose a legal center?" Well, let me say in the first place that I think we should have many legal centers. Every school that is qualified to take part in research—and that ought to be every school represented here—should be a center of research, a center of help to the bar and the bench. And perish the thought that any action that we might take would restrict that to one school or a few schools. It would become at once sterile and perish. Therefore, a legal center in the sense of a single center of research which should gather into itself the work of the teaching profession seems to me is entirely out of the question.

Is there anything that should be done, any kind of work that should be centralized? Well, perhaps so. In order to be effective, particularly at the start, this new, so far as it is to be general and organized work, must be in a certain way supervised. We mustn't all pell-mell begin to research on the same subjects. That is waste of time. We mustn't all pell-mell begin to compete for the means of research. That is suicide. Probably it would be well to have some organization, even though we are over-organized already, to direct the law schools in engaging in this new work. We cannot decide that today, but it is a subject that we ought to be investigating at once.

How can we best organize the powers of the law teachers for helping the bench and the bar? It is probable that some form of organization will be able to parcel out the work in order to make it more effective. It is certain in my mind that at the start some form of organization will be wise to stimulate the interest and the enthusiasm of the profession for this kind of work. We must co-operate to a large extent in order to do what it is in our power of good to do.

Furthermore, I take it to be wise that somebody should be charged with the duty of seeing each year what work ought to be done and seeing that it is done, and for that purpose, too, some form of co-operation among all the schools would be useful.

It might be said we have an excellent organization in the American Law Institute,—wouldn't that be enough? Perhaps it would, but I notice that the Director of that Institute is almost worked to death with what he has to do in the present work, and I notice that the Council of that Institute is giving for members of the profession, with the important and exacting duties the members of the Council have, as much time as those men can probably give to the work first before the Institute, that of the restatement of law. All these questions, however, are questions of detail, questions of how we shall bring about what we desire.

But don't we all desire that thing, that

we shall engage, and engage with energy and enthusiasm, in the work of putting before the bench and the bar, and therefore of our whole country, any discoveries that it may be in our power to make as to the guidance of civilization by law? I can see what we might do, and it seems to me a wonderful thing to do. We can have in every school that is prepared to do it—and that before long will be every school in this Association—we can have men, professors and students, working on present-day, important problems, getting together the necessary data for the discussion of these problems. We can see once a year the teachers of a particular subject in every one of our schools coming together and sitting down around the table with distinguished judges and distinguished leaders of the bar, as I have had the privilege of doing in the Law Institute, and the enthusiasm that will result, the sense of power from co-operation that will result, the sense of pleasure at being associated with the men whom we have long admired by name in a worth-while work. Those will be things that will, as the President says, add dignity to the profession, add pleasure to the members of the profession and make it more inviting and more useful even than it is today.

Now, these are dreams. Can they be brought about? If they are worth while, they can be, but of course the question needs careful study and consideration, and in order to bring it out I am going now to make a motion which might serve as the basis of the general discussion. My motion is this: "That the President's address and Mr. Wickersham's address be referred to a committee consisting of the President and Mr. Wickersham and of nine members appointed by the President, for consideration and report at the business meeting."

[Seconded.]

President Lewis: I assume, Mr. Beale, that you don't want that motion put until the end of the discussion. That will be put at the end of the discussion.

On the program Mr. Bates is the only other person who has been requested formally to open the discussion.

Mr. Bates: Mr. President and Gentlemen of the Association: Now, what I have to say is addressed entirely to Mr. Lewis' paper, which I had the opportunity of reading, though I should not want to take the floor without expressing absolute sympathy with Mr. Wickersham's convincing invitation to us in some thoroughgoing way to enter the field of international law for the service which he has suggested.

President Lewis has sketched for us a picture of the future of legal education and scholarship filled with stimulating suggestion, with the clarity and wisdom which we have come to expect from one who has so effectively discharged the important duties which

have come to him in his varied contacts with almost every worth-while activity in the several branches of the legal profession. To the advances of law teachers, recounted in his paper, he has contributed materially through a long period of years, and fortunately is still young enough so that we may count upon the effective aid of his resourceful mind and his varied experiences, in continuing the march into fields of usefulness about which he and others have been thinking much in recent years.

I. With all that Mr. Lewis says about the attainment of a recognized position in the legal profession by teachers of law, and with his statement of what should be done to draw able young men into our ranks, by assuring them against unnecessary anxieties as to their conditions of life and by giving them opportunity for scholarly and fruitful work, and stimulating contacts, I heartily agree. With reference only to some of the means of providing the law teacher with contacts with other branches of the legal profession, and with the business and public affairs of the world, I would sound a quiet note of warning; though I believe that even in this respect I am in substantial accord with Mr. Lewis.

Law teachers have indeed made notable advances during the last quarter century in establishing an honorable place for their branch of the profession; but they have not done this merely by getting away from the busy judge or lawyer type, that gives what of its time and energy it can to teaching. Such an emergence from the earlier type of American Law School instructor was indeed necessary to the accomplishment of the gains which have been recorded; but the step was productive of those gains not only because it resulted in the rise of a class of teachers not burdened with the more dramatic work of the court room and office, but also and chiefly because the class which thus came into control of our law faculties could early begin and thereafter continue a life of scholarship, not interfered with by other exacting duties, and with its sole objective the ascertainment, by scientific methods, of the truth and the whole truth about the law and its applications. I believe we cannot overestimate the far-reaching effect of this disentanglement of the law teacher from all motives and all objectives in his work other than those implicit in the scientific search for a sound and useful scheme of law, to be constructed, of course, largely from the materials of the legal system which had already developed.

It is for this reason that I, for one, would look with apprehension upon any decided tendency again to involve the teaching profession in the work of advocacy, or in the supplying of materials and theories to support one or another side in a legal controversy, or to aid particular interests; for I

would fear that participation in work of the kind indicated would to some extent dim or refract the scientific vision and somewhat, even though but slightly, diminish that absolute devotion to the work of disinterested legal scholarship and legal education, the effective performance of which has been the chief factor in winning for law teachers respect, honor and influence.

I would not have any one think that I am in any degree lacking in admiration for the splendid work of the advocate and counselor, a profession to enter which I spent many years of preparation, followed by some years in its active practice; but it is a work distinct from ours, with different objectives, different motives, and developing somewhat variant methods of work and ways of looking at and using legal materials. I believe that it is very desirable that our law faculties should be made up largely of men who have had first-hand contacts with the active practice of law and those who practice it; and that after their own experience in practice, these teachers should continue to have sufficient contact with the changing work and methods of the bar to be thoroughly conversant with them. This would involve many things and among them I would not object—in fact, would approve—of occasional participation in the preparation of appealed cases, provided always such participation were kept well within such limits as would ensure against the deflection of the teacher from his prime duties and his great objective. But it must be admitted that once the practice is begun, the temptations to him who succeeds in it to continue and to enlarge his activities in this direction are insidious and powerful. It scarcely can be doubted that the legal scholar who has proved his effectiveness in the argument of cases will be forced at times to consider whether it may not be prejudicial to his continued success in this work for him to publish his views, derived as a scholar, concerning many important topics of the law. Profitable employment of this kind is certain to come chiefly from those who have great business or property interests to protect or assert.

This is particularly true at the present time, in the whole field of public law. Granted that the Sir Galahads in our profession might nevertheless press on toward their Holy Grail, rejecting employment which might even possibly result in distortion of their opinions, still I shall not be regarded as offensive, I hope, if I say that there are many among us who might prove to be Lancelots rather than Galahads.

The law in relation to Public Utilities, Taxation, and the principles and policies embodied in the Due Process and Equal Protection of the Laws clauses are now in a peculiarly agitated condition of flux. Certainly it is not inconceivable that the scholar in those fields who is being tempted into em-

ployment by private interests might hesitate before publishing articles or books which would definitely align him against the interests and views of possible clients or their regular attorneys. The legal scholar who has maintained liberal views as to the powers of the legislature, and what seemed to him sound conceptions of the function of the judiciary in relation to legislation, would scarcely commend himself thereby to employers resisting public regulation.

I should say, though, that even in this field, as my friend Mr. Powell put it to me this morning, that the law teacher might well engage as advisor to a lawyer, furnishing him with materials objectively, and with not particular reference to the exact state of conviction which the lawyer wished to produce in the mind of the Court.

Of course it may be suggested that the expert in Public Law might be employed by the public or by those favoring regulation. Occasionally this will be true; but as the commercial world is now constituted and as property is now distributed, that will not often be the case. Moreover, on whichever side the legal scholar may be employed, it will be his business to argue for the particular view of his employers; and while this may sometimes accord with his own views as a scholar, that cannot always be true, by any means.

I need not dwell upon the danger of withdrawing the law teacher from the regular and exhaustive performance of his teaching duties. No one, least of all Mr. Lewis, would propose that we return to the condition in this respect from which our profession has finally escaped. But any outside employment in term time, by reason of its dramatic and absorbing quality, is almost certain to interfere to some extent with the exacting work of really inspiring teaching. We see what it is still doing in the fields of medical and engineering education. Granted, as is claimed by many medical and engineering teachers that their work is of such nature as to make employment in the application of their theories more desirable than is the case with us, I believe nevertheless that both medical and engineering education are today suffering from the more dogmatic instruction and less enthusiastic leadership in the class room, and the so to speak "trade" point of view accompanying the engagement of teachers in the practice of the professions indicated, even though only occasionally and as experts and counselors. But let me repeat, I do not think that Mr. Lewis and I differ much, if any, in regard to this matter. He has made a suggestion which has its value, and I am endeavoring merely to ask for caution in acting upon it.

II. Shall we have a juristic center, and if so, when and where, and of what scope and purposes? Undoubtedly there are general

conditions and tendencies at work, and not least among them the American passion for organizing everything and everybody, which will make the establishment of such a national legal headquarters altogether probable at no very distant date. I have long thought that the American Bar Association should have general business and editorial quarters, which might help to diminish the inefficiency accompanying the present absurdly inadequate arrangement of the Association's affairs. The establishment of such a headquarters might naturally and beneficially draw to the same center the business organizations of some of the other juristic bodies; but I do not believe that the time is ripe for the establishment of a juristic center upon the plan vaguely adumbrated in some of Mr. Lewis' questions. To center the work of legal research in one place for the purposes of the American Law Institute, much more for the general purposes of legal scholarship, would be abortive, and so far as successful would tend to discourage much useful work now going on in many parts of the country. Let us attempt mentally to visualize and estimate some of the probable results of such an establishment.

In the first place, if it were to be established in connection with an existing law school, even though there were no organic relationship, there would be the advantage of access to the school library and of the presence of its faculty and graduate students. But however careful the organizers might be to avoid favoring the school chosen, at the expense of the others, precisely that effect would inevitably be accomplished; and I do not believe that it is because I happen to be associated with a school located in a small city, scarcely likely to be chosen for this purpose, that I feel as strongly about it as I do. Of course it might be urged that if the effect of such an arrangement were to develop one pre-eminent law school, especially in relation to graduate work, much benefit would accrue. This I think can be so in any large measure only upon the assumption that there is room for but one great graduate school of law in this country. That view I do not for a moment accept.

It is true that thus far there has been no great inundation of graduate students, but the fact is that until recently law schools have offered little or nothing to attract discerning students of this class. We are only now upon the threshold of a great development in this work and the country is too large, too populous, too diversified in its temperaments and needs, to justify concentration of any of the great essentials of our national life at one place. Strong schools are coming forward rapidly to meet the needs of the hour in this respect. There are today at least six schools offering graduate work worth while, and a few others are

preparing to enter the field. At least five of these schools are in universities strong enough financially and otherwise to develop great libraries and employ men capable of leading graduate study and original research, worthily. It is not at all unlikely that in the very immediate future some very interesting announcements regarding such work may be made.

It would be a very great mistake to discourage in any degree this development of several vigorous centers of graduate legal work; but human nature being what it is, unquestionably that very result would follow the establishment of a national center in connection with any one school. Such a step would be looked upon popularly as indicating the judgment of the profession that that one school was pre-eminent, which would tend to weaken the student and financial support of the other schools. Trustees would be unwilling to make appropriations for graduate work in their respective institutions if the conditions artificially set up as indicated were to militate against all but the favored school. The reasons against any such arrangement are far more overwhelming and far more fundamental than the mere desire of several universities worthily to promote legal research. I do not think that any thoughtful person in the country can question that we are already tending too rapidly to center power in our national government, at the expense of our state governments, and to establish antithetic Fifth Avenues and Main Streets, both of ultimate menace to the social welfare of the country if separated by too wide a gulf. These are, of course, but more metaphors to illustrate the tendencies alluded to, which seem to me most menacing.

I believe it to be highly important that legal research be conducted in different parts of the country, and that strong faculties be found in many law schools. We have a population today of perhaps one hundred fifteen or twenty millions of people. Within a comparatively few years that population will probably be doubled. The wealth of the country, its business, industrial and social problems, interests and institutions are growing even more rapidly than our population. No centripetal tendency in any of these respects can be wholly successful; but if such a tendency were even to approximate completeness, the result would be to sterilize much of our country. There are at least eight or ten great sections of the country imperial in extent, wealth and population, each of which should have its own powerful law school, not merely preparing lawyers to practice law but engaging successfully and productively in the super law school work which Mr. Lewis has so well indicated.

It scarcely seems possible to me that the work of the American Law Institute, for example, could be prosecuted (at least for

many years to come) under conditions better calculated to produce the best results than those now prevailing. The reporters and other advisers are drawn from several schools and represent, to a certain extent, not only the thinking of the individuals thus drafted but also the consensus of opinions of the various faculties from which they come. At the conferences, therefore, are presented divers important and well thought out views. Then the members return to their respective faculties, and study, reflection, and discussion with colleagues about the subject matter of the Institute's work goes on until another conference is held. This, I believe, will produce sounder results than would be likely to issue from a permanent national headquarters, with the tendency to standardize thinking and views, usually developed in such a center.

Another important advantage of the present arrangement of conducting the work of the Institute—and this would be true of any other research work upon a national scale—is that the various schools being represented upon something like an equal basis, all of them feel a direct interest in its work. The Institute has two perhaps equally difficult tasks—one to re-state the law, and the other to secure the acceptance of such re-statement when made. Probably there is no other single way in which the Institute can make such a powerful appeal to all sections of our diverse country as can be made through the law schools which participate in this work. Every alumnus of such a school feels that he is, in a sense, represented in, in a sense responsible for, and in a very real sense interested to secure the acceptance of the work of the Institute. The establishment of a single research center anywhere, and especially in connection with a law school, would, whether we approve of the motives or not, tend to neutralize and paralyze this interest which the schools and their alumni now feel in this work. At present, to be sure, only a few schools are thus directly represented in the work, but only four or five topics have thus far been approached. As the work proceeds, unquestionably every strong law school in the country will be represented by active workers in this great undertaking.

If the proposed legal center were not physically related to an existing law school, where should it go? There would be advantages in having it in New York, where there are great law libraries; but on the other hand, living is expensive and life is wearing in New York City; and our continent-wide country should not be expected to send its legal representatives to headquarters situated at one extreme of her imperial domain. The same objections could be urged to Washington—perhaps the place most naturally thought of in this connection. In addition is the fact that the climate in Washing-

ton, for at least four months in the year, is not conducive to successful intellectual work.

Not only for the present, but for many years to come, it seems to me that we should let present movements and tendencies run their natural course, undeflected by any attempt to establish a juristic center, in the fullest possible sense of that term, at one place. The three branches of our profession are getting their contacts now through many associations, which are being increased in number and energies, for the purposes of their expanding work and multiplying activities. At the American and state and local bar association meetings, at Conferences on Uniform State Laws, at the meetings of the American Law Institute, and in many other ways, judges, lawyers and law teachers are being thrown together and co-operating for their common purposes. Let this work go on in its present form in the many admirably equipped and pleasant places which the country affords for such work—as the drafting of a restatement of the law, and the meeting of associations of various kinds.

The ferment of scholarship and the cohesive influence of many juristic associations and co-operative undertakings are doing their work. Perhaps ten or twenty-five years from now these institutions and these activities will have become so developed and so co-ordinated as to point clearly toward the establishment of some kind of a national juristic center; but for my part, I believe that even at the more distant time suggested, such an organization should be merely a business, and perhaps editorial arrangement of our forces. The work of sheer scholarship and of investigation should always go on in many places. It is not desirable that we all wear the same intellectual or legal colors. There is too much tendency as things are toward standardization and bureaucracy. The future of research and scholarship lies along the lines and in the places which have developed naturally, when and where the public opinion and the needs have arisen to support such work. These natural forces should not be interfered with. Existing effective centers should not be dissipated, by artificial means, to strengthen any one.

I hope that it may be superfluous for me to say that if such a research center as we have been discussing shall be established, so far as I and my colleagues can control it, the school which we represent will give unstinted support and loyalty to that center and its various undertakings. [Applause.]

President Lewis: Gentlemen, the subject is now open to general debate, the subject of either or both papers. The Chair does not see anybody rising. Does anybody wish to rise?

Mr. Davis: I was very much interested in Mr. Wickersham's suggestion that this Association might have a section on Interna-

tional Law. I presume that those who arrange the program would provide, if we are to continue the round tables, for a section or round table in which those especially interested in International Law could take part, and I think it perhaps not necessary to make a motion to that effect; but I should like to see that incorporated in our proceedings next year, and stated as a specific portion of our program.

President Lewis: Before I put Mr. Beale's motion, are there any other remarks?

If I may be permitted to say just a word with regard to Mr. Beale's statement, I would simply like to say two things: First, that I think he has put most excellently the dangers which lie in the suggestion which I made that there were some advantages when a man who is a law teacher had reached an acknowledged standing in his profession, of his occasional employment in private or semi-public or public litigation. I think I appreciate as fully as any one here, as doubtless you all do, the strength of the way in which he put the dangers in that suggestion.

May I also say this other thing. I said that I put, in regard to the juristic or legal centers, my questions in a purely question shape because that is the state of my mind. At the same time, I wouldn't leave you under a false impression. I am in entire accord with Mr. Bates, as far as my present experience goes, subject to modification and change by practical experience; I think that he is right in believing that it would be a great mistake for us to build up a super-place of research. The main thing is to strengthen the schools that belong to this Association so that they provide American scholarship.

Certainly the experience of the Institute is, as Mr. Bates has indicated, that while there are certain disadvantages in the men working for the Institute not all being able to live and work in one place, there are a great many counterbalancing advantages of that work going on in the different schools, and there is a good deal to be said for the conferences on that work meeting now in one place and now in another, and as that work grows and spreads, more schools will unquestionably be brought in in that way.

That was all I wanted to say about it, so that there would be no misapprehension of the underlying thought which I tried to express in the paper.

Now, are there any further remarks? If not, I shall put Mr. Beale's motion. After that there will be one or two announcements. Mr. Beale's motion, as I understood it, is that there be constituted a committee consisting of Mr. Wickersham, the President, and nine other members appointed by the President, to consider the address of Mr. Wickersham

and your President and make a report at the final meeting of this Association this year.

[The question was put and the motion carried.]

I will appoint on that committee the following persons: Mr. Joseph H. Beale, Mr. Henry M. Bates, Mr. James P. Hall, Mr. Edmund M. Morgan, Mr. H. S. Richards, Mr. R. Powell, Mr. J. H. Wigmore, Mr. G. G. Bogert, Mr. O. K. McMurray.

I think I have mentioned nine.

Adjournment taken at 4:55 p. m.

Third Session

The Third Session was called to order at 2:20 Wednesday afternoon, December 31, 1924.

The third general session was called to order at 2:20 Wednesday afternoon, President Lewis presiding.

President Lewis: The meeting will please come to order.

President Lewis: Are there any further questions? If not, we will go on with the reports of the committees as outlined in the program. The Report of the Committee on Curriculum, Mr. H. Oliphant of Columbia.

Mr. Woodward: Mr. Oliphant is not here and I have been asked to present the report of the Committee. It is a brief report. It is found on page 11 of the program. [See page 482 of this magazine.]

President Lewis: Then you have no recommendations?

Mr. Woodward: The recommendation is that we do nothing.

President Lewis: Gentlemen, you have heard the report. What is your pleasure with it?

[Upon motion, duly seconded and carried, the report was accepted and ordered placed on file.]

The Report of the Special Committee on the Reform of Legal Procedure, J. H. Wigmore. Is Dean Wigmore here?

Mr. Wigmore: I will ask the Secretary to read the report of the committee.

Secretary Aigler: It is printed on page 12 of the program. [See page 483 of this magazine.]

President Lewis: Well, that is going one better than the other Committee.

Gentlemen, you have heard the report of the committee, which is the recommendation that its report be received, placed on file, and the committee be discharged. Is there any motion to that effect?

[It was so moved, seconded and carried.]

The next thing on the report of committees is the report of the Special Committee on Reprinting of Leading Articles in Field of Law, H. M. Bates, University of Michi-

gan Law School, Chairman. Is Mr. Bates here? [Not present.] Is anybody able to report for that committee?

Mr. Chafee: I have a copy of the report.

At the 1922 meeting of this Association it was

"Resolved, that a committee be appointed to consider the possibility of series of reprints of some of the more important articles that have appeared in legal periodicals."

The undersigned were thereupon appointed such a committee by President Hall, and during the year 1923 carried on a voluminous correspondence with each other and with the schools publishing law reviews, for the purpose of determining the desirability and practicability of such a series of reprints as is indicated in the foregoing resolution.

At the 1923 meeting of the Association the Committee made an informal report, which was acted upon by the Association only in so far as to direct the committee to make a further study of the problem and report at a subsequent meeting. During the year just past, some further investigation has been made and some correspondence between the members of the Committee has taken place, but it did not seem practicable at any time for the Committee to hold a meeting, which alone, perhaps, could have settled and harmonized the views of the members of the Committee regarding the project. One of the members, Mr. H. A. Bigelow, has been out of the country for several months, and it has not been possible to learn whether he has modified the opinions he expressed during the year before.

The Committee is unanimous in believing that such a series as proposed would have distinct value, but they are not altogether agreed as to whether the undertaking is a feasible one and if so, just when and how the work should be done.

The chief benefits to be derived from such a publication seem to us to include the following:

The convenience of legal scholars, law students, judges and practicing members of the bar, who had access to the projected volumes, would be greatly served. In the schools without large libraries, valuable material would be made available to teachers and students, to which otherwise access would be almost impossible. Judges and lawyers, so far as they were able and disposed to consult the books, would likewise be greatly benefited. With the great advance in public and professional opinion which the law teaching profession has made during the last two decades or so, the law reviews of the country, and particularly those published by law schools, have found increasing favor and circulation. When such distinguished lawyers as Secretary of State Hughes, Chief Justice Taft, and others, proclaim this fact, as both of the two gentlemen mentioned did at the meeting of the

American Law Institute held in Washington last February, we may confidently assert it ourselves. Judge Cardozo has quoted from and cited law review articles copiously in his two admirable books, and other writers and supreme courts have done likewise in books, articles and court opinions. All this augurs well for the future influence of law periodicals, and yet it may be questioned whether for some years to come very many lawyers would buy such a series as we are considering. Still some market, and much usefulness, may be justly anticipated. Reporters and advisers for the American Law Institute would undoubtedly make much use of these books, and find their labors somewhat lightened thereby. The series, if at all comprehensive, would, moreover, save wear and tear upon the sets of law magazines in all libraries. Finally, it may be said that the publication of such a series would accelerate and strengthen the law teaching profession in lay, as well as in juristic, circles.

Against these weighty benefits must be set some difficulties and perhaps some possibly regrettable dissipation of the productive and creative energies of those engaged in the very considerable editorial task of making such a series what it should be. In the first place, there is little ground for hope that the undertaking would be commercially successful, at least unless extended over a long period, during which time, at the best, a considerable deficit would have to be carried in some way. Several admirable series for which Mr. Wigmore has been chiefly responsible have not been successful commercial ventures, if our information is correct. One of the wisest and best informed law publishers of the day, who has evinced a sympathetic interest in the enterprise, has declared frankly that he did not think it could be made to pay any money. This Association has at present nothing like an adequate reserve to justify its assuming financial responsibility. It was suggested a year or two ago that the American Law Institute might think it worth its while to aid us in the work, but when this suggestion was carried to our distinguished President, who is also the Director of the Institute, the answer was given with his usual courtesy, but it may be said without offense, quite evasively. As our President is a master at liaison, his failure to enthruse seemed most significant. Casual suggestions that an "angel" or "angels" might be found have thus far not proved fruitful, though no great effort has been made in this direction.

It has also been suggested that the Association of Law Libraries might undertake the work, but we are informed that they have little money with which to back such an enterprise.

As has been remarked, a great deal of editorial work by able men would be required

to select the articles scattered through something like eight hundred volumes, at a conservative estimate. The articles selected would have to be arranged and prepared for the printer and much mechanical labor, which would have to be done more or less by legal scholars, would follow. There is at least some doubt as to whether at a time when so many men are actively engaged in the work of the American Law Institute, we ought to make a further draft upon the law teaching profession just now. Moreover, there might be some difficulties and embarrassments in securing authorization from the publishers of the magazines and the authors of the articles. It is not unlikely that the subject of Torts would be deemed the most important at the present time for inclusion in the list. The Harvard Law Review has just published a volume of its own articles on that subject, and it may be doubted whether there are enough valuable articles in the other reviews to justify another volume devoted to that subject. The late W. N. Hohfeld's article, published in the Yale Law Journal, would not be available, in the opinion of Yale authorities, and perhaps some motives of delicacy should prevent reprinting any of his articles found in other reviews. There are rumors that other schools are contemplating republishing some of their own articles upon selected subjects, though apparently no determinations have thus far been reached which would be fatal to our plan.

Finally, a different type of difficulty may be encountered in certain embarrassment in meeting the not unnatural desire of many of the journals to be represented in the proposed series. While this is a matter of some delicacy, it is not suggested as a by any means weighty reason against undertaking the work. It is possible, too, that further investigation would show that a great many of the articles, which have had their value were, nevertheless, put forward more or less tentatively by their authors and would scarcely represent current views. Whether enough of permanent value can be secured in some of the topics which we should want to cover could be determined only upon a careful investigation. In the aggregate, these editorial difficulties are rather serious and several men whose advice has been sought in the matter, though enthusiastically in favor of such a publication, flatly avowed their unwillingness to take part seriously in this work. That is the perhaps selfish, perhaps unavoidable, attitude of at least a majority of the members of this Committee. Teachers in the member schools of this Association are, for the most part, very busy men, and the ablest of them have their own projects for further investigation and productive scholarship. They should not be lightly drafted into a service of this kind.

With these facts, considerations and con-

ditions in mind, the Committee is not, as a whole, prepared to recommend the immediate undertaking of this indubitably valuable project. One member of the Committee is strongly in favor of going on with the work and believes that the financial wherewithal may be found. Two other members are, on the whole, but rather mildly inclined likewise. The other two are extremely doubtful. All of us believe that at some time in the not distant future we should try it. Perhaps in five or ten years the then augmented wealth of good material may demand it. The feeling of the Chairman of the Committee at least is that several important fields of the law are now being subjected to re-examination by many men, which promises to clarify and develop topics now in much confusion and conflict. Such new material might, of course, be added in a supplementary volume, but at least it is possible that say ten years from now, with such new material, we would publish a series differing from, and better than, any now possible.

The Committee, then, is not prepared to recommend the immediate assumption of this onerous and expensive task, much less is it disposed to recommend the abandonment of a proposal with so much of value as this certainly has. But in any event, before undertaking seriously to raise the necessary money and to constitute an editorial committee, a more thorough and exhaustive study of the subject than any we have attempted should be made. We suggest that the Association authorize the appointment of a committee of men who have the time and disposition to examine the whole field of legal periodical literature, and in consultation with others, to determine what articles have sufficient value to merit republication in this form. With the report of such a committee in hand, the Association could then intelligently, and with hope of success, essay the task of raising the necessary money and drafting an editorial committee to see the work through the press. Much of the work of that Committee would have been performed by the examining committee here proposed, and through it or some other committee we could then proceed with the work.

President Lewis: As I understand it, the report of that committee is that they recommend that the Executive Committee be authorized to appoint a committee to bring in a longer report next year. [Laughter.]

Well, gentlemen, you have the report of the committee. What is your pleasure? That that shall be done, giving the power, as I understand it that is all you mean, the power to the Executive Committee. You don't want to order it to do so. Then the question is whether the Executive Committee shall have this power to appoint this committee as suggested in this report.

[Upon motion, duly seconded and carried,

the report of the committee was adopted as read.]

The next report is the report of the Committee on Jurisprudence and Legal Philosophy, by Dean Wigmore.

Mr. Wigmore: Mr. President, the report of that committee and of the one next on your list are very brief and can be summarized in two minutes.

The Committee on Jurisprudence and Legal Philosophy reports that during the present year the manuscript for Volume VIII, *Theory of Justice*, by Rudolph Stammler of the University of Berlin, translated by Isaac Husik of the University of Pennsylvania, has been completed and sent to the publishers, Macmillan and Company. It will appear from the press in 1925. The galley proofs have just begun to come in. That will complete the entire eleven volumes of that series.

There remains in the Series only one volume unpublished, viz. Volume VI, *The Positive Philosophy of Law*, by Icilio Vanni of the University of Bologna, to be translated by the late John Lisle and Layton B. Register of the University of Pennsylvania.

Attention of the members of the Association is again invited by the Committee to the *Review of the Philosophy of Law*, published in Italy, and edited in chief by Giorgio del Vecchio of the University of Rome. This is now the only journal of the Philosophy of Law commanding international contributions and deserves the support of all Libraries in the Association, even though only a few scholars may be able, at present, to make use of it.

The Committee on Legal History can report progress in that Volume VII, *History of Continental Civil Procedure*, by the late Chief Justice Engelmann of Breslau, and others, translated by Robert W. Millar of Northwestern University Law School, and Volume VIII, *History of Italian Law*, by Carlo Calisse of the Italian Senate, translated by the late John Lisle, and by Layton B. Register of the University of Pennsylvania, which have been under preparation for some time, and have been unavoidably delayed, will presumably go to the publisher for printing in 1925. The committee reported that two years ago and again last year, but the committee will continue to report that, in hopes. The publishers won't put them both on the press at once, but I trust that there will be a generous rivalry in racing to the printer with them.

Volume X, the *History of Continental Commercial Law*, will probably never be published, because the eminent author, Paul Huvelin of the University of Lyon, passed away this spring leaving the work unfinished. We are in correspondence with his estate to ascertain the possibility of its being completed by another hand. An obituary notice of Professor Huvelin will appear in

the January number of the *Illinois Law Review*.

Attention is once more called to the *Netherlands Journal of the History of Law*. This is now the only such journal having international contributors. Its articles are published in four languages, including English, and it should be in the library of every member of the Association. It is now entering its fourth volume.

That is all the committee has in its report. [Applause.]

President Lewis: May I ask you, Col. Wigmore, one question in regard to the report of the Committee on Jurisprudence and Legal Philosophy. Did I understand you to say this is the last of the publications of that committee, the eleventh one?

Mr. Wigmore: It is the last volume remaining unpublished. Vanni is left over, but we don't know who is ever going to translate Vanni.

President Lewis: But, still your committee should be continued, unquestionably?

Mr. Wigmore: Oh yes, until this volume gets through in any case.

President Lewis: Then the first matter is to dispose of the first report, which, as I understand it,—I will recognize a motion as being made that the report be received and placed on file. [A motion was made, seconded and carried.]

The next is the report of the Committee on Legal History, on which it is desired the same action be taken.

[It was so moved, seconded and carried.]

The next is the report of the committee which was appointed at the last session on the address of Mr. Wickersham and the President's Address. Is that committee ready to report? That was to report at this session.

Mr. McMurray: Mr. President: Mr. Beale has entrusted me with the presentation of this report. He was unable to be present.

The committee appointed to consider the addresses of the President and Mr. Wickersham beg leave to report as follows:

1. It is desirable to encourage the school members of this Association, so soon as they are equipped to engage in the work, to undertake such investigations as may be of interest to the profession and the public, including as well procedural as substantive law, and international as municipal law.

2. For the purpose of encouraging and coordinating such investigations it will probably be desirable to provide some formal organization for legal research or to create a section for the purpose in some existing association.

3. It is unwise to attempt any general scheme of legal investigation without the united action of all branches of the profession.

The Committee therefore recommend the passing of the following resolutions:

Resolved, that a Standing Committee on

Co-operation with the Bench and Bar be appointed (in place of the former Committee on Juristic Center) with power to invite members of the Bench and Bar to join with them in discussing the entire subject matter of the two addresses named and of Mr. R. J. Miller's address in the Round Table on Procedure.

Resolved, that the outgoing President appoint forthwith a Committee on International Law to co-operate with Mr. Wickersham and other members of the Bench and Bar interested in the development of international law.

President Lewis: Mr. McMurray, as I understand it, there are two resolutions there. If you will read the first resolution, we will put the question on that first.

Mr. McMurray: That a Standing Committee on Co-operation with the Bench and Bar be appointed (in place of the former Committee on Juristic Center) with power to invite members of the Bench and Bar to join with them in discussing the entire subject matter of the two addresses named and of Mr. R. J. Miller's address in the Round Table on Procedure.

I move the adoption of this resolution. [Seconded.]

President Lewis: You have heard the reading of the resolution, gentlemen. Are there any remarks?

[The motion was carried and the resolution adopted.]

Mr. McMurray: The second resolution is as follows:

"Resolved, that the outgoing President appoint forthwith a Committee on International Law to co-operate with Mr. Wickersham and other members of the Bench and Bar interested in the development of international law."

I move the adoption of this resolution. [Seconded.]

President Lewis: Are there any remarks on this resolution?

[The motion was carried and the resolution adopted.]

President Lewis: I appoint on that committee: Mr. Manley O. Hudson, Mr. E. D. Dickinson, Mr. Edwin M. Borchard, Mr. Orrin K. McMurray, Mr. Jos. W. Bingham, Mr. Edwin R. Keedy.

The members of the other committee, of course, are appointed under the resolution by the incoming President.

The next order of business is the report of the Treasurer.

Secretary-Treasurer Aigler: Mr. President, with the President's consent, and I assume he will give it, I want to refer to one or two matters before I make that report as Treasurer.

You may have noticed on the table just outside the door a number of copies of this pamphlet, published by the Carnegie people, entitled, "Standards and Standardizers in Legal Education." These have been sent on by Mr. Reed for distribution. Those of you

who are interested in having these may get them at the table.

Then, you may be interested to know that there appear to be registered two hundred one. Perhaps five or six of those are not professors of law, but as nearly as I can determine, the rest of them are, which means that this is the largest meeting by perhaps twenty or twenty-five that we have ever had.

Then this matter might in one way more appropriately come up under the heading of Unfinished Business, but in a way more appropriately here. At the meeting of the Association last year a report was made by the Executive Committee with reference to the application of two schools that were conducting both full and part time curricula. A resolution was then adopted by the Association reading as follows:

"Resolved, that the Executive Committee recommend that action upon the applications of the law schools of De Paul and Loyola Universities be postponed."

"Resolved, further, that this committee recommend to the Association that the applicants be notified that upon the establishment of curricula in their part-time schools covering a period of at least 160 weeks, distributed over not less than four years, exclusive of holidays and vacation periods, and their compliance in other respects with the requirements of Article VI, they will be eligible to membership."

Pursuant to that resolution, De Paul University Law School was elected to membership Monday morning. The Executive Committee are now ready to report that after a supplementary examination made this week Loyola University has also complied with that resolution, and I therefore move, Mr. President, the election of Loyola Law School to membership in this Association.

[The motion was duly seconded and carried.]

That makes the membership of the Association at the present time sixty-three. We had fifty-eight members, one withdrew, and we have added six at this meeting.

At the close of the meeting last year, on motion of Mr. Vold, it was voted that the Executive Committee be instructed to consider the advisability of providing that in addition to his other duties the Secretary shall compile annually and keep available for the use of members of the law faculty the teaching load and the actual average of salaries paid to full-time professors in each of the member schools.

Pursuant to that action, the Secretary did gather that information. There was some difficulty in getting the information from some schools who reported that that was confidential. However, if I remember correctly, all of the member schools with the exception, possibly, of one or two, did report fully. The Secretary has felt that that information was highly confidential, as to details, at least.

There have been a few inquiries from members of the Association for information along that line, and where the information called for was of the character that I felt, in view of the confidential character of what I had, could be given, it was sent on to the inquirer.

What I would like to know at this time is whether it is the desire of the members of the Association that the Secretary do that again this year. The resolution as adopted, of course, calls for it being done annually. Most of the inquiries were along the line of requests for salaries paid in such and such school, perhaps a rival institution or an institution in which it was felt conditions were somewhat similar to those prevailing at the inquirer's institution. I dare say that, after all, the good that has been done by gathering that information has not been very great, perhaps not great enough to warrant a compilation annually. After a number of years have gone by and there may have been some changes in salary schedules and teaching loads, it may be wise to do that again. I would like to know whether it is the desire of the men present that the Secretary do that again next year.

President Lewis: The Secretary, as I understand it, asks for your desire on that matter, which you can express verbally or in the form of a resolution if you so desire.

[It was moved that the Secretary be instructed not to collect such information until further direction. Seconded.]

President Lewis: Is there any discussion on the motion? [The motion was carried.]

Secretary Aigler read the report of the Treasurer.

President Lewis: It has been moved and seconded that the report of the Treasurer be received and adopted. [Carried.]

Secretary Aigler: I wish to make an announcement with reference to the round tables. I have been notified with reference to the make-up of the Councils for next year as to most of the sections. There are one or two, at least, that have not reported to me, and I wish those of you who have that information would let me have it before you leave.

Then, as to the programs for these round table conferences next year, it has been the custom for the Secretary to send out to the head of the Council in September a notification that the programs should be prepared and gotten to the Secretary in time for printing. I wish that you would not wait until fall to start work on those programs. It has been suggested to the Secretary, and I will be glad to add my own personal endorsement to that, that these programs should be in formation, at least, from now on. That, generally speaking, the programs ought to be pretty well shaped up by the time of the summer vacation; and, in connection with that same problem, this other item. In the notice sent out to the various heads of the

Councils I stated that there had been some criticism, some rather general criticism, in that long papers were prepared and read at these round tables. I have heard still more of that criticism at this meeting. Obviously, it is none of the business of the members of the Executive Committee to dictate to the Councils the character of the programs. I am passing this on to you as a suggestion, for whatever it may be worth.

President Lewis: I should like to echo what the Secretary has said in regard to the danger of our drifting into round tables that will merely be the reading of a long paper, followed by two shorter papers, and no discussion. If we do that I think nine-tenths of the benefit of the round tables will disappear, and that every effort should be made to keep us away from the drift in that direction.

The next thing on the order of business is the thing which comes up every year, and that is the place of meeting. Does any one here desire to make any suggestions or motions in that respect?

[Moved the matter of the selection of the meeting place for the 1925 Convention be left to the Executive Committee with power to act. Seconded.]

President Lewis: Is there no one here wishes to speak for French Lick Springs, if Mr. Keedy is not present? I understand French Lick is shut up.

Gentlemen, there is a motion that the matter be referred to the Executive Committee. Is there any discussion?

[The motion was carried.]

Now, in the item of Unfinished Business the first thing that comes up is to finish the matter brought to our attention by the report of the Executive Committee, which is dealt with on page 10, No. 4¹ on that page. I will ask the Secretary to explain the recommendation of the committee.

Secretary Aigler: The question has arisen with reference to the propriety of member schools transferring special students to regular rating so as to receive the degree. We do provide in our articles for such an animal as the special student, though his number is limited. We are advised that it is the practice in some schools, at least in relatively very few cases, to make such transfers. For instance, if a special student shows in his first two years of law work that he is a man of unusual ability, so that he ranks perhaps in the highest twenty-five per cent of the class. The Committee were rather doubtful as to whether the Articles of Association permit that to be done. If you will examine the Articles closely on that point, I think you will agree that while it is not, maybe, specifically forbidden, at the same time it is not expressly permitted, and the trend of the language would probably be in the direction of forbidding it. The Committee have no

¹ See page 482 of this magazine.

recommendation to make on the matter at this time. We thought if we could get some discussion of the problem, that then we might be ready to formulate an amendment to the Articles that might show clearly one thing or the other.

President Lewis: Gentlemen, you have heard the report of the Executive Committee on this matter. Is it the desire for any discussion on it which will be helpful to the incoming Executive Committee in considering the possibility of a rule more or less defining this situation?

I don't suppose any motion is necessary at all. If there is no desire to discuss this subject, I will call for any other Unfinished Business.

Mr. Hudson: Mr President, it seems to me a very fortunate thing that so many of the meetings of our Association can be held in the city where other learned societies are holding their annual meetings very frequently. But it has struck me as an unfortunate thing that there is so little co-operation between our Association and the learned societies that have been meeting in Chicago during the past two or three years. This year, for instance, the program of the American Economic Association, the program of the Statisticians and other programs have included a number of items of special interest to many of us in the law schools. Mr. Llewellyn's discussion the other day, Mr. Hall's discussion, and others are discussions that many of us would like to have heard, but unfortunately they conflicted with our own program here.

It seems to me quite desirable that we should have the advantage, we should take full advantage of the opportunity to see the people in Economics and various fields of social science when they are meeting in the same city as ours, and I think from time to time occasions may arise in which some useful co-operation could be arranged.

I should therefore like to present this motion:

"That in connection with the preparation of the programs of our Annual Meetings the Executive Committee be requested to consider the plans of other learned societies working in the field of social science, and to arrange co-operation with such societies where it is deemed desirable." [Seconded.]

President Lewis: Gentlemen, you have heard the motion. Before putting the motion, I should like merely to express my hearty approval of it. I had the opportunity to address the American Economic Society, which is meeting here this week, on Sunday night, and I said to them that it really did seem to me a very great pity that there was no means of communication, practically, between two bodies of men who were, after all, both working in the related branches of social science.

Are there any remarks?

Mr. Powell: To make that more specific I would like to suggest, not by way of amendment, but merely in amplification of Mr. Hudson's motion, that it might be entirely possible to arrange one-half day's session in common with one of those groups, in which program matters could be discussed that would be of primary interest to both groups. It seems to me it might be very valuable to get us all together, more or less by compulsion, in such a manner. I merely make that in the form of a suggestion.

President Lewis: Are there any other remarks?

[The motion was carried.]

The next—which is practically the final business, unless there is more unfinished business; is there any more unfinished business?—is the report of the Nominating Committee.

Mr. Woodward: Mr. President, the Nominating Committee reports the following nominations:

For President: Mr. Orrin K. McMurray, of the University of California.

For Secretary-Treasurer: Mr. Ralph W. Aigler, of the University of Michigan.

For the three additional members Executive Committee: Mr. William Draper Lewis, Retiring President; Mr. Thomas W. Swan, of Yale; Mr. Everett Fraser, of Minnesota.

President Lewis: Gentlemen, you have heard the report of your Nominating Committee. What is your desire?

Mr. Hudson: I move the report be adopted and the Secretary be instructed to cast the ballot for all of the officers nominated by the Nominating Committee.

[The motion was seconded and carried unanimously, Secretary Aigler casting the unanimous ballot.]

President Lewis: I am now going to break the usual custom of instantly adjourning, because I have no right, being no longer your President, to adjourn this meeting. But I will exercise the right of appointing a committee composed of three persons, Mr. Woodward, Mr. Corbin and Mr. Vance, to escort the President-elect to the Chair. [Applause as the committee escort President-elect McMurray to the Chair.]

President Lewis: I present you with the gavel—this ink bottle, but I warn you not to use it. I hope you may have as much pleasure with this crowd of learned and intellectual friends as I have had.

President-Elect McMurray: I trust I may, Mr. President, and that the Committees, in reporting, will kindly omit scurrilous remarks about the President. If so, I shall be very much obliged to them.

I also trust that a gavel will be provided for the next meeting.

I thank you very greatly for the honor given to the Pacific Coast, which I think is conferred upon me by this election.

The next in the order of business, I will ask the members of the Executive Committee just elected to remain a minute after the adjournment,

If there is nothing further, a motion to adjourn is now in order.

[Upon motion, duly seconded and carried, the meeting adjourned.]

Notes and Personals

Our attention has been called to the fact that in the list of students, under the title "Registration in Law Schools—Fall of 1924," which was published in the December, 1924, issue of the Review, we inserted, on page 423, under the heading "Canada" the registration figures for the Law School of McGill University for 1924 and credited them to the Osgoode Hall Law School of Toronto, Canada. We hereby apologize for our mistake and give below the correct registration figures for the Osgoode Hall Law School for the year 1924—25:

1st Yr. Class.	2d Yr. Class.	3d Yr. Class.	Total.
72	161	110	343

◆ ◆ ◆

The first book, bearing on its title page the name of The Lawyers' Club of the University of Michigan, has recently been published. The book is entitled "The Principles of Corporation Law," and its author is Mr. William W. Cook, well known as the author of a standard treatise on the Law of Corporations. Mr. Cook states, in his Preface, that the book is an experiment to condense, simplify, and clarify the law for the use of the lawyer, law student and the layman. It is a new type of text-book, containing a minimum amount of citations of cases. References are given in the notes to the larger text-books on the subject, chiefly to the eighth edition of the author's six-volume work on Corporation Law. The book is handsomely bound in red leather and contains xlv—815 pages.

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Mr. Robert L. Henry, formerly Professor of Law at the State Universities of Louisiana, Illinois, North Dakota, California, and Iowa, is now located at Alexandria, Egypt. Mr. Henry's former associates will be interested to learn that he has been recently appointed a Judge of the Mixed Courts at Alexandria. Nomination was made by President Coolidge and the appointment by Fouad I, King of Egypt. Mr. Henry writes as follows regarding the Mixed Courts:

"There are 14 nations, besides Egypt, represented in the Mixed Courts, Great Britain, France, Italy, Spain, Portugal, Greece, Belgium, Holland, Denmark, Norway, Sweden,

Russia, Switzerland, and the United States. There are three courts of first instance, one at Cairo, one at Alexandria and one at Mansourah, and a Court of Appeals at Alexandria. There are a total of 75 judges, of whom 44 are foreign. Three of the 44 are Americans, one on the tribunal at Cairo, one on the tribunal at Alexandria, and one on the Court of Appeals at Alexandria. The salaries of the foreign judges run from \$7,000 to \$11,000 per year; those of the Egyptian members a little less. Judges are appointed for life, or until age of 70, with pension thereafter. They are not removable, except by the Court itself. There are a total of over 1,500 functionaries connected with the three tribunals and the Court of Appeals, and they handle about 10,000 cases a year. The Mixed Courts have jurisdiction of all suits between foreigners and Egyptians, between foreigners of different nationalities, and over all real estate matter to which a foreigner is a party; also a considerable criminal jurisdiction over foreigners. The law and procedure are civil. French is the language of the courts. The opinions, etc., are in French."

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Professor James C. Reed, of the Department of Business Law, University of Pittsburgh, sends in the following report of the meeting of instructors of law in Collegiate Schools of Business, which was held at Chicago in connection with the Association of American Law Schools:

"On December 30, 1924, the teachers of law in Collegiate Schools of Business met in Chicago and formed an organization, to be known as the Association of Instructors of Law in Collegiate Schools of Business.

"The meeting was held in conjunction with the annual convention of the Association of American Law Schools. This gave the Business Law Teachers an opportunity to attend the three-day session of the Association of American Law Schools. The officers of the Association of American Law Schools gave us a very hearty welcome and a cordial invitation to attend their meetings.

"Tuesday afternoon the Teachers of Law in Collegiate Schools of Business had a meeting of their own. There were 27 teachers present, representing universities from all parts of the country.

"A very interesting program was presented. Professor Nathan Isaacs, Professor of Law in the Harvard Graduate School of Business Administration, gave a talk on the 'Plan of Teaching Business Law in the Harvard School of Business Administration.' We were all jealous of Professor Isaacs' position at Harvard, in that he has a fund at his disposal to do research work in Business Law, a kind of work which few of us have either the time or funds to undertake.

"Professor Alfred Bays, of Northwestern University School of Commerce, presented the method of teaching Business Law at that University. Professor Bays is one of the veterans in the teaching of Business Law, and gave some excellent ideas on the teaching of the subject.

"The third talk of the afternoon was given by professor Carl McGinnis, of the University of Texas who is a very fluent talker and well posted on teaching Business Law.

"After the program, officers were elected for the coming year as follows: President, James C. Reed, of the University of Pittsburgh; vice president, Professor Nathan Isaacs, of Harvard University; secretary and treasurer, Professor Bays, of Northwestern University. Professors Reed, Semenow, and Brockelbank, all of the University of Pittsburgh, were appointed a committee to draft a constitution.

"The meeting was sponsored by the University of Pittsburgh, and the expenses were paid by that institution. The Association is going to publish a booklet containing a sketch of all the teachers of law in Collegiate Schools of Business, on the same plan as the one issued by the Association of American Law Schools.

"The next meeting will be held in conjunction with the annual convention of the Association of American Law Schools, the same as the last one. It is hoped to have a large percentage of the seventy-five teachers of law in Collegiate Schools of Business present. The meeting will be held during the Christmas vacation, 1925."



At the meeting of the Association of American Law Schools, after the dinner, on December 30th, Dean John H. Wigmore, of the Northwestern University School of Law, gave a most interesting talk on "the World's Legal Systems." Dean Wigmore gave portions of a series of five lectures, which he has prepared on the subject. The lectures are illustrated by 500 colored lantern slides, which are of extraordinary interest. Believing that law teachers in general will be interested in the scope of Dean Wigmore's series of lectures, we give below the synopsis of them, prepared by Professor Wigmore, which was circulated at the meeting:

"Purpose.—The purpose of these lectures is to interest the professional public (lawyers, and students of law and political science) in the world's legal history and comparative law. This is perhaps the first attempt to apply in the field of Legal History the method now so widely used in other branches of knowledge—the lecture with colored lantern-pictures.

"Scope.—The sixteen principal legal systems, past and present, form the subject—Egyptian, Babylonian, Hebrew, Chinese, Hindu, Greek, Roman, Japanese, Mohammedan, Maritime, Ecclesiastical, Celtic, Slavic, Germanic, Romanesque, Anglican.

"For each Series are shown between 25 and 75 pictures, connected by the lecturer's narrative exposition. In each Series, the pictures present the edifices in which Law and Justice were dispensed (whether temples, palaces, tents, courthouses, or city-gates); the principal men of law (whether kings, priests, legislators, judges, jurists, or advocates); and the chief types of legal records (whether codes, statutes, deeds, contracts, treatises, or judicial decisions.) By these aids, the narrative attempts to reconstruct some principal impressions of the legal life of these peoples. Subsequent study of the book-learning about the details of

these systems can thus be made more realistic and intelligent.

"Sources.—The pictures have been gathered by the lecturer, during many years past, by research, and by travel in numerous countries. Some of the photographs were taken specially for this purpose. For example, in the Greek series, photographs were taken of the earliest Greek records preserved in the museums of Naples and Rome; in the Ecclesiastical series, of manuscripts in the Vatican library; in the Egyptian series, of the hieroglyph of the Goddess of Justice, in the Florence Ethnographical Museum; in the Slavic series, of early Bohemian codes at Prag; in the Romanesque series, of the ancient courtroom of Normandy at Rouen. From the world's galleries of Art have been made slides of famous paintings, such as Titian's painting of the Council of Trent, Ary Scheffer's painting of Charlemagne enacting his First Statutes, and Cabanel's painting of St. Louis dispensing Justice, at Paris; Sir E. Poynter's painting of an Egyptian Triumph, in London; Benjamin Constant's painting of Justinian Compiling his Code, in the Metropolitan Art Museum of New York; Serra's fresco of Irnerius at Bologna; Chimenti's painting of St. Ives, patron saint of lawyers, at Florence; Leinweber's painting of the Judgment of Solomon.

"The fac similes of manuscripts, from the archaeological and historical records of various countries, include the oldest court record, the oldest will, the oldest promissory note, the oldest codes, extant in the world; the manuscripts of Gaius' Institutes and Justinian's Digest, of the Lex Salica and the Sachsenspiegel, of Gratian's Decretum, of the Koran and the earliest Islamic law-treatise, of typical deeds and contracts in the Egyptian, Hebrew, Germanic, Roman, Hindu, Islamic, and other systems.

"The printed fac similes include the first or early editions of Justinian's Code, of the Code Napoleon, of Coke's Institutes, etc.

"The views of buildings and places are taken, for the ancient systems, exclusively from archaeologists' or artists' restorations (not ruins), and are colored in pursuance to authentic directions. For the modern systems, they include the famous edifices of Justice in Rome, Paris, London, Rouen, Padua, Moscow, Budapest, Calcutta, Peking, Buenos Aires, Cairo, Morocco, Bokhara, Constantinople, and elsewhere.

"The portraits (ideal or veritable) include the most famous judges, jurists, advocates, and legislators in all the systems, so far as obtainable.

"Eight libraries in Chicago have been searched in person by the lecturer, and many libraries and museums elsewhere by correspondence. Books of travel, history, and memoirs have been drawn upon. Most of the books of law used and of the portraits selected have been found in the Elbert H. Gary Library of Law of Northwestern University.

"Slides.—The slides (with a few exceptions) were made under the lecturer's personal direction, by Mr. C. T. E. Schultze, of Chicago; and their coloring was done by Mrs. Schultze.

"Lectures.—The sixteen Systems are divided into five groups, each including from two to four Systems. Each group is covered in one lecture, taking about an hour of time. The lectures can be presented thus: All five Lectures (on separate dates); or, Lecture I only; or, Lectures I and V (on separate dates). Lectures II, III, and IV are not given without the others."



Appointments to the faculty of the Summer Session of the Law School at Cornell University have been made as follows: Professor Felix Frankfurter, of the Harvard

Law School, Professor Charles E. Clark, of the Yale Law School, Professor Ralph C. Aigler, of the University of Michigan Law School, Professor James W. Simonton, of the University of Missouri Law School, and Dean G. G. Bogert and Professors Whiteside, Stevens, and Burdick, of the Cornell Law School.



Harvard University announces the appointment of three new professors in the Law School, to serve from September 1, 1925. The men appointed are as follows: Francis Hermann Bohlen, Philadelphia lawyer and educator, who received his degree in 1892 at the University of Pennsylvania Law School, with which, as a fellow, lecturer, and professor, he has been connected ever since, will come to the Harvard Law School in September as professor of law. Since 1914 he has been Algernon Sidney Biddle professor of law at the University of Pennsylvania. He is one of the foremost American authorities on Torts.

The second new professor of law is a Harvard College and Harvard Law School graduate, Edmund Morris Morgan, who has been professor of law at Yale since 1917. He received his degree the following year. In 1905 he was graduated from the Harvard Law School, beginning law practice in Duluth, Minn., in that year. From 1912 to 1917 he was professor of law at the University of Minnesota, going then in the same capacity to Yale. Professor Morgan served as assistant to the Judge Advocate General, United States Army, in Washington, from 1917 to 1919, during the war. His specialty is Evidence

Calvert Magruder, assistant professor of law since 1920 and a graduate of the Harvard Law School in 1916, becomes professor of law. He received his bachelor's degree in 1913 from St. John's College in Maryland.



Though the standards were raised every year during the past five years, the enrollment at the Creighton College of Law increased thirty-five per cent. last fall. In 1919, following the leading law schools of the country, Creighton raised its entrance requirements to four years of high school and one year of college work. No one was received as a candidate for a degree who had not all the preliminary work. In January, 1922, two years of college work was required of all matriculants. Special students were admitted, if they were over twenty-one years of age, but were not granted degrees. In 1923 the number of special students was limited to five. In 1924 afternoon sessions were added to the curriculum for all students. The increase in numbers to meet the rising standards shows a remarkable trend in legal education.

Three factors have figured in advancing the enrollment during these years of more exacting standards. The faculty of the law school has been well chosen, four of the professors devoting their full time to the students. Secondly, the library of the law college numbers twenty-six thousand volumes. Thirdly, the men studying law at Creighton realize that work and sacrifice are the best preparation for a successful legal career.

The American Law School Review

An Intercollegiate Law Journal

S. E. Turner, Editor

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Recently Published in American Casebook Series

SECOND EDITION OF Cases on Corporations

By Harry S. Richards

Dean of the University of Wisconsin Law School

In this edition the order of treatment and analysis adopted in the first edition has, in the main, been followed. In some instances, changes in the order of the subject-matter as well as cases have been made. Since the first edition, there have been some notable decisions that modify formerly accepted doctrines in corporation law, particularly in the field of corporate reorganization and consolidation. The more important cases in this field are presented in this edition. In all fifty-eight new cases have been added. The notes in the second edition have been elaborated, and include a comprehensive list of references to articles and notes in legal periodicals that will, it is hoped, prove helpful in the discussion of the cases in the text. An appendix has been added, containing forms for the organization of corporations, and the articles and by-laws of some well-known corporations of international scope.

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Legal Education in Germany

By O. C. KIEP, LL. B. (London), Jur. D. (Leipzig),
Counselor in the German Chancellery

LEGAL education is in all civilized countries one of the chief fundaments of public life. Professional administration draws its recruits almost exclusively from amongst the graduates of the law faculties and the majority of municipal and state politicians and legislators rise from the ranks of the legal profession. Recently published statistics show an average of more than 50 per cent. of trained lawyers amongst the members of the legislatures of modern states. This system of "lawyer-ridden government" has often been deplored and criticized in different languages, the fact of its existence, however, apart from being easily accounted for from natural and therefore sound reasons, has remained more or less unchanged from the Augurs of Ancient Rome up to the present day and will doubtlessly remain so in the future. But this fact at the same time imposes a heavy responsibility upon those in whose hands the shaping and organization of legal training rests; for the law student is the future leader of the nation in a more concrete sense than the apprentice or pupil of any other profession or faculty.

The system of legal education obtain-

ing in each country is of necessity dependent upon the nature and structure of its law and jurisdiction. Thus we find a more scientific, theoretical, and correspondingly long-timed training in countries with a complicated and artificial (in the philosophical sense) legal system, than in those states where the practical mind of the nation has developed a simpler and less scientific law and jurisdiction. This does not mean that case law is always and necessarily clearer and easier of application than codified law—a subject on which much might be said—but it unquestionably requires a more philosophical and scientific legal training and correspondingly a more prolonged study in theory and practice to master a comprehensive system of codified law, codified on a uniform and homogeneous principle in all its branches, than it does to prepare the legal practitioner in countries whose law and jurisdiction lacks such highly developed structure. There are, of course, other factors which come into consideration in discussing the problem of codified law and case-made law—such as the history of the constitution, the social and economic conditions, etc.—but the rule may in general be accept-

ed that the former system necessitates a more prolonged study than the latter.

In Germany, the country of the world in which the principle of codification has perhaps been most fully carried through, the preparation for bench and bar lasts six years, of which three are spent at the University and three in practical work at the law courts and in the offices of the Judge, the Public Prosecutor, and the Attorney. A brief survey of the German juridical organization appears requisite, in order to illustrate the curriculum of law training. Civil and criminal law—both branches having been laid down in extensive codes and special acts—are administered in the first instance by the so-called "Amtsgerichte," or District Courts, sitting with a single Judge in civil, with a Judge or two or more lay assessors in criminal, jurisdiction. The next stage is the "Landgericht," or County Court, which acts as a Court of Appeal against the findings of the District Court in petty matters and has the first jurisdiction in more important civil and criminal matters. The District Courts sit in Chambers of three Judges with lay assessors (in place of jurors) in certain criminal, never, however, in civil, cases.

Appeal against the decisions of the County Courts—except in criminal cases, where the District Court pronounced judgment in first instance and the appellate decision of the County Court is final—goes to the "Oberlandesgericht," or Supreme State Court, which sits with a quorum of three or five Judges. In certain cases a further right of appeal is granted to the "Reichsgericht"—Federal Court of the Empire—at Leipsic, in whose hands is placed the final decision in the administration of federal law and the responsibility for its uniform application throughout the realm. In passing, it may be remarked that almost all branches of the law have been codified by federal legislation in Germany and only very few subject-matters remain, such as certain parts of land, administrative and taxational law, which still belong to the domain of state legislation. The Federal Court sits in senates with a bench of seven Judges.

It will thus be seen that a vast number of Judges are required for the administration of law in the different German Courts, the total amounting to about 10,000. To these must be added about 500 Public Prosecutors attached to the different law courts, but independently organized and under the immediate control of the State Ministries of Justice. Against these figures, however, which appear high for a population of 60 millions, it must be considered that the work of the law courts in Germany is not confined to civil and criminal jurisdiction, but that a large amount of administrative work, such as land registration, guardianship, administration of estates, bankruptcy, etc., is likewise intrusted to the Judges of first instance, with corresponding appellate functions in the higher grades. All Judges, with the exception of those of the Federal Court at Leipsic, as likewise the Public Prosecutors, are, besides their other work, charged with the education of the future members of the profession; i. e., with the training of law graduates during the second, practical part of their course of legal preparation.

This refers to all law students, whether they desire to become Judges or prefer to join the Bar; and here a further fundamental difference between the German and the English-American legal system is to be noted. For in Germany Bench and Bar are separate professions, interchangeable in theory, but in practice, as a rule, kept strictly apart. On completing his six years' period of training and passing the final examination, the law student decides either to become a Judge or an Attorney, and generally remains at this decision for the rest of his life. It is, of course, possible for a Judge at all times to leave government service and be enrolled on the Bar, and it is likewise possible for an Attorney to receive an appointment as Judge; but neither of these two possibilities often arise, the successful Attorney generally preferring his remunerative calling to a comparatively ill-paid Judgeship, and the professional Judge hesitating to exchange his secure government post for the competitive struggle of advocacy.

We now come to the curriculum of legal training, beginning with the University courses which, as already stated, last three years. In Germany the University terms, two in each year, run from October till March and from May till August. All Universities have the same organization and the same educational programme. It is thus possible, and, moreover, customary, for students to pass the different terms at various Universities; too frequent changes are, of course, not conducive to fruitful study, but the average German student attends two or three different Universities during the course of his academic education. As a rule only one examination has to be taken; i. e., the law examination at the end of the sixth University term. In some South German states an intermediate examination is inserted between the second and third term. An entry or matriculation examination, as condition precedent to enrollment on the students' register, is unknown in Germany; the qualification for University study is the possession of the so-called "Abiturium," the leaving certificate of the higher schools.

No formal regulations exist as to the order of sequence in which the different law courses should be taken, the law only providing for an examination in certain subjects at the end of the University course, and it is left to the discretion of the student which subjects he wishes to work on in each term. A general programme has, however, been agreed upon by the educational authorities, and the students are invited to follow same in selecting their teachers and courses. Under the present rules the candidate for the law examination has to show proficient knowledge in "public and private law, law history, and the principles of political economy."

Lectures and seminary courses are provided for at the universities on the following subjects, stated in the order of sequence as generally recommended to the students:

Encyclopedia and philosophy of law (Jurisprudence).

Roman law, history of Roman and of German law.

Principles of German law, German Civil and Criminal Code, civil and criminal procedure.

Public law and law of the Constitution; ecclesiastical law.

Administrative and social law—Political Economy.

Seminary courses in public, private, social law, and law of procedure, etc.

The prevailing system of teaching at the Universities is the lecture system; i. e., the subject-matter is propounded in a series of lectures, the students making notes and reading up the text-books at home.

In the seminary courses a limited number of students assemble periodically under the guidance of a professor to discuss the subjects dealt with in the lectures *viva voce*, exercise debating and arguing, and learn the practice of legal drafting.

No control is, as a rule, exercised as to attendance and application; the student is regarded as an independent citizen of the academic community, and regulates his courses of study under his own responsibility. He is, however, on reporting for examination, called upon to produce certain records, certifying as to his successful participation in the seminary courses provided for in the principal subject-matters.

The examination consists of three parts:

(1) The so-called "home work," a dissertation or thesis on a legal subject, or a written opinion on a practical question of law, for the preparation of which six weeks are allowed. The candidate must verify in writing that he has received no assistance and employed no other sources of information in preparing his work than those stated therein.

(2) Four test papers, written under supervision and in *clausura*. Five hours are allowed for each subject, and the papers must be written on appointed days within two weeks. The subjects are civil law, including procedure (two papers), criminal law, and public law (one paper each). On each subject one theme is provided, being set either in the form of a question on a general topic, or

as an invitation to give a written opinion on a stated practical case.

(3) The last stage of examination is the "viva voce," a searching interrogatory, which likewise lasts five hours on two consecutive days, and, being limited to five candidates at a time, with four examiners, offers ample occasion to sound the knowledge and intellect of each candidate in all directions and to the full depth.

The viva voce examination embraces all subjects of the law dealt with in the University courses; two of the examiners, however, do not belong to the University staff, but are selected from the local bench or bar. This last part of the examination is decisive for the total result; failure here means a failure in the whole examination, whereas insufficient results in the first and second parts, unless extending to all papers, may be compensated by good achievements in the last part.

The successful candidate, if desirous of continuing the legal career, now applies to the President of the Supreme State Court for nomination as "Referendar," and thereupon enters the second stage of his professional training; i. e., the practical work at the Courts and in the lawyer's office. He may already have had occasion, as a student, to attend the sittings and be initiated into the practical routine of the District Courts during his University vacations, but he now enters the judiciary with an official standing, which might best be characterized as an assistant or secretary of the Judge or Judges to whom he is assigned.

This period of "apprenticeship" lasts three years, and is allotted to the different judiciary functions according to the following schedule: The Referendar is assigned for (1) three months to the Public Prosecutor of a District Court; (2) three months to the Criminal Chamber of a District Court; (3) two months to the Civil Chamber of a District Court; (4) eight months to a County Court; (5) eight months to the Administrative Department of a District Court (land registry, administration of estates, guardianship, bankruptcy, execution of

judgments, etc.); and (6) six months to the Supreme State Court. On completion of the fifth and before entering the final stage, six months' work in a lawyer's office are inserted, where the candidate is initiated into the practice of the Bar, including Court pleading, legal advising, drafting and attestation of documents, etc.

In each stage of apprenticeship the candidate is assigned to a particular person (Judge, Public Prosecutor, or Attorney), to whom he is subordinated, and who allots his work and is responsible for his instruction and training. Each such master is called upon to give a written testimonial as to the ability, application, and character of the candidate, with special reference to his suitability to become a member of the legal profession. This testimonial forms an important basis for the judgment of the examiners in the second and final examination which terminates the six years' legal training. The practical work in the different offices is supplemented by special courses, which are organized in connection with larger law courts for the benefit of all "Referendars" of each District, under the guidance of a Judge, and in which a similar method of instruction is pursued as in the University Seminaries.

The final examination is held at the State Capital under the auspices of the Ministry of Justice by a special Board of Examiners chosen from the Bench and the Bar. This examination consists of four parts: Firstly, a dissertation or thesis of a scientific nature or a written expert opinion on a practical case. The former is set by the board on application during the last two years of apprenticeship and presented by the candidate on reporting for the final examination; the latter is submitted to the candidate immediately on reporting and three weeks' time allowed for its preparation. Secondly, a written report and opinion based upon the Court records of a lawsuit. Thirdly, three test papers written in clausura and under supervision as in the first examination, the subjects being civil law (two papers) and criminal law (one paper). Here also the Court records of an actual lawsuit are employed and the

candidate is required to draft a written opinion. The viva voce is in form similar to the oral part of the first examination and is devoted to ascertain the candidate's knowledge of legal practice in all its branches. Each candidate is furthermore called upon to give an opinion on a case in formal delivery. The successful candidate is upon application to the Minister of Justice, nominated "Assessor"—an official designation for which no apt translation can be found—and is thereupon immediately eligible to the Bench and the Bar.

If he aspires to the judiciary career, he is appointed deputy or supernumerary judge and acts in this capacity in State service until a vacancy occurs enabling his nomination as District or County Court Judge, or if he so desires, as Public Prosecutor. This may, according to circumstances and to the examination results, last from one to five years. The candidate desirous of following the bar profession is, on application, enrolled on the register of attorneys of a specified District, and can thereupon, immediately begin work as a legal practitioner, if he is successful in finding clients.

In comparing the German with the

Anglo-American system of legal training, two prominent features of the former are to be noted, which materially differ from the latter. In the first place the long duration of the training period, which, extending over six years, surpasses the time prescribed for this purpose in almost all other countries. Secondly, the fact that the whole course of legal training is in Germany confided to the State and its organs. The first feature has already been alluded to at the entry of this discussion and accounted for in the complicated and scientific structure of German law. The second is regarded by many outside of Germany as a drawback and as a fetter to the free development of the profession. I do not concur with this criticism and it is worthy of note that the German revolution of 1918, whilst radically changing the Constitution of the country, found no cause to depart from the system of legal training. It unquestionably has the advantage of establishing an uniform and elevated standard of proficiency for all members of the profession, a standard worthy of the high and ideal duties which are incumbent upon this calling.

Penal Laws in the United States and Europe

By S. MILES BOUTON

[Mr. Bouton is a newspaper correspondent and a member of the New York Bar. He is now living in Berlin.]

IT HAS always seemed to me that psychologists, in their studies of the psychology of any particular people, have been too prone to neglect the one domain of a state's life which mirrors with the greatest fidelity the mental characteristics and views of the state's inhabitants. This is the body of laws, but especially its criminal laws, since the main features of civil law are much the same everywhere. The student who

compares the penal code of any American state with the penal code of a European country finds himself face to face with two utterly different worlds. Certain crimes reprobated here are there not regarded as crimes at all; crimes lightly punished here are severely punished there, and vice versa.

I have in mind here particularly the German penal code and the New York state code, but both are typical of their

hemispheres. Few important differences, speaking from the viewpoint of psychology and general manner of thought, are to be found among the penal codes of the various American states, and the German penal legislation has for its part been followed in essential aspects by all the states formerly composing the Austro-Hungarian monarchy, by Holland and her colonies, by all the Scandinavian countries, including Finland, and even by Greece and, in large part, Serbia. The French code, which dominates the practice of most of the rest of the continent, is in general along the same lines as the legislation of the Germanic lands. In other words, the manners of thinking which I am attempting to contrast here are not specifically French, German, American, Swedish, etc., but American and European, the whole European continent being more or less at one in its general views of what constitutes crime.

At the very outset it is to be said that the European criminal laws and the manner of their execution are vastly more humane than the American, make more concessions to the common weaknesses of humanity, exhibit markedly fewer traces of having been inspired by moral indignation, and either do not invade at all or else invade but little the domain of private, personal conduct. Not satisfied with all this, the Germans provide four different forms of imprisonment. The severest is the *Zuchthaus*. This is imprisonment at hard labor. The convict must do whatever work is placed before him; he may be employed in outside labor, and sinks in general to the level of a numbered machine. The term of confinement may be for life, or if a specified term of years, from one to fifteen years. A *Zuchthaus* sentence is a "dishonoring" sentence, making the criminal ineligible for life for service in the army or navy and for holding public offices, the latter including the right to practice as an attorney, a notary, or to be a juror.

Next comes the *Gefängnis*, to which I shall refer hereinafter simply as imprisonment. The convict "can be employed in a manner adapted to his abilities and circumstances," and also has

the right to demand that work be furnished him. He cannot be employed outside the prison, except with his consent. The maximum sentence possible except for concurrent crimes, is five years; the minimum, one day.

Imprisonment in a *Festung* or fortress is specified for crimes that do not imply turpitude or lack of honorable feelings. It is the sentence regularly imposed upon political prisoners, as, for instance, upon Gottfried von Jagow, former police-president of Berlin, who participated in the Kapp *Putsch* of March, 1920. It consists merely in detention in some building or fortified place, or even in a specified part of a town. The sentence may be for life, or, if for a limited time, from one day to fifteen years.

Simple *Haft*, or arrest, is the mildest form of punishment. It consists of detention in a jail or penitentiary, not at hard labor, for a minimum of one day and a maximum of six weeks. It is the punishment for misdemeanors, and cannot carry any loss of civil rights.

I have already referred to the fact that there is little trace of moral indignation in the European codes, and that the domain of personal conduct is little invaded. Thus, fornication is nowhere in Europe a crime. Another striking instance is the treatment of sodomy. A number of European states have quite repealed their statutes punishing this, since advanced penological science comes more and more to regard it as a pathological affliction, and hence not a crime. The German code still retains, against opposition which constantly grows stronger, its provision punishing this practice, but the extreme penalty is fixed at five years, against the New York maximum of twenty years, and in practice the paragraph is hardly ever invoked except for the protection of minors. The New York code also makes homosexual acts between women a crime, but the German code does not.

Adultery is punishable in Germany by imprisonment not exceeding six months, if the transgression has resulted in a divorce, but even then only *ex relatione*, whereas it is unqualifiedly a misdemeanor in New York, and the prosecuting

attorney will act on his own initiative. The greater humaneness of the German law and its freedom from moral indignation appears also in the paragraphs dealing with incest. New York provides imprisonment up to ten years, with no qualifications. The German law distinguishes sharply between incest committed between ancestor and descendant, in which case the former can be imprisoned up to five years, the latter only up to two years, and between incest committed by brother and sister, where the extreme punishment is two years. First degree rape is punishable in Germany with hard labor (*Zuchthaus*) up to fifteen years, against twenty years in New York, but intercourse with a girl of previous good character, under sixteen years of age (the New York code sets the limit at eighteen years), is punishable in Germany with a maximum of one year, against the savage ten years of the New York code.

The greater concessions made by European criminal laws to the common weaknesses of humanity are strikingly illustrated by a comparison of paragraph 2461 of the New York code with paragraph 217 of the German code. The former imposes imprisonment for from two to five years upon a woman who tries to conceal the stillbirth of her illegitimate child, or "the death of any such issue under the age of two years." The German code provides: "A mother who kills her illegitimate child during or immediately after its birth is punishable by imprisonment at hard labor for not less than three years. If there be mitigating circumstances, simple imprisonment for not less than two years shall be imposed."

I do not hesitate to declare that the New York law is barbarous—Puritanical moral indignation masquerading in the guise of penology. A young woman, betrayed or seduced in such a moment of weakness as may come to any except bloodless individuals, suffers for months the extremest mental agonies as she awaits her illegitimate issue. It is born dead in New York; she thanks God and conceals the birth, and goes to prison for from two to five years. Her sister in

Germany, in the same circumstances, gives birth to a live child and kills it. The law remembers what has gone before, prescribes a comparatively mild punishment, and then goes on to provide that mitigating circumstances may be taken into consideration. Moreover, mitigating circumstances always are taken into consideration. Moral indignation is here, as everywhere in Europe, divorced from the administration of penal laws. Even as I write, a case of this kind is reported in Berlin. A young mother, betrayed at the age of sixteen by her employer, killed her issue. Verdict: Three years in prison; sentence suspended during good behavior.

Murder in the first degree is, in Germany as in America, punishable by death, for it is not assumed that one who slays with deliberation and malice pre-pense is or can become a useful citizen. In the next gradations, however, the superior humaneness of the European practice again exhibits itself. A sudden killing, without advance deliberation, such as would constitute murder in the second degree in America, is in Germany manslaughter, punishable by imprisonment at hard labor for not more than five years. In practice, however, such a homicide generally resolves itself into a killing in the heat of passion, where the slayer "has been provoked to anger by being mishandled, or by the mishandling of a relative, or by severe insults from the side of the person slain, and when the deed is committed on the spot." Here the punishment may be simple imprisonment for as little as six months, and not more than five years. The slayer in self-defense, who, in America, exceeds the bounds necessary for defending himself, can be convicted of homicide. He may, in the language of the New York code, do "nothing more than is necessary to prevent the injury threatened." But here, too, the German lawgivers remember human frailties, and prescribe that "an exceeding of the bounds of self-defense is not punishable if the person overstepped those bounds in confusion, anxiety or fear." In Canada within a year a young man of twenty-one, who sought to frighten an assail-

ant with a shot, but whose shot was deflected by a stove and killed the assailant, was hanged. Any European people would have regarded such a hanging as a judicial murder.

Specifically German is a paragraph covering "killing upon request." Neither the French, Spanish, Portuguese, Swedish, Austrian, nor French codes contain such a provision. The German law reads: "If the slayer has been moved to commit the killing by the express and earnest request of the person killed, simple imprisonment for not less than three years is to be imposed." In practice, however, whenever it can be proved beyond a doubt that such earnest request was made, sentence is usually suspended. This is particularly true in cases where the person killed had been suffering from an incurable disease, and where the person doing the killing was either related to or an intimate friend of the person killed.

That the American administration of justice is frequently more humane than the American penal laws can be admitted, but this can generally be achieved only by disregarding or evading the plain letter of the law. The New Yorker who steals a sack of flour to feed his hungry family could undoubtedly count on the average judge's sympathy, and it is most likely that his sentence would be suspended. But he has no right to demand that his offending be regarded otherwise than as petty larceny, punishable by imprisonment up to a year, by a fine of \$500, or both fine and imprisonment. The German lawgivers leave nothing dependent on the character or feeling of the judge. They provide expressly that whoever steals food for his own or his dependents' use is guilty merely of *Mundraub* (literally, mouth robbery), for which the minimum punishment is one day in jail; the maximum, six weeks. Even he who steals a coat or hat for his own use can be sent to jail for not more than three months, with a minimum of one day. In neither of these cases will the prosecuting attorney act, except *ex relatione*.

The savagely barbarous sentences, running from ten to forty-five years, im-

posed in America during the war on what are regarded almost everywhere in Europe as political prisoners, caused much adverse comment in the Old World. No such sentences are known there. Below life imprisonment, which is prescribed for only a few grave crimes—murder, high treason—the German code prescribes no prison sentence of more than 15 years. That term, for instance, is the maximum for arson in the first degree, punishable in New York with forty years' imprisonment. New York prescribes twenty years for arson in the second degree, and 15 years, or the German maximum, for less severe arson. The New York maximum for highway robbery is twenty years; the German, fifteen years. For burglary New York prescribes not less than ten years; Germany, not more than ten years. Bribery of an official is punishable in New York with imprisonment up to ten years; in Germany, not more than five years. And it may be noted in this connection that such bribery is regarded by German public opinion much more severely than in America.

Basically different views are found in matters affecting personal honor and the dignity of the individual. In America, defamation of character "by mere speech" (New York Code, § 1340) is not a crime. The victim's only recourse is a civil action for damages, and even then there is but a limited category of defamatory remarks that are regarded as slanderous *per se*. My enemy can, with considerable impunity, declare that I am a jackass, an ignoramus, and even a liar. It was not until 1871 that the New York Legislature enacted that words imputing unchastity to a woman are slanderous *per se*, and even this applies only to civil actions.

Everywhere in Europe, however, it is assumed as a matter of course that the honor of the individual is entitled to protection. The German penal code punishes "insult" with imprisonment up to a year, or with a fine up to 600 marks (\$150), and the courts have uniformly ruled that insult consists in "the pronouncement of lack of respect through general utterances, general depreciative

criticism, and also through abusive words." This protection is also expressly extended to all official persons and bodies, clergymen, members of the army and navy, and legislative bodies. In addition to the fine or imprisonment imposed, the offender can be compelled to pay for the publication of the court's decree in one or more newspapers. If the offender be a newspaper, it can be compelled to print the decree prominently in the form prescribed by the court.

The differing American and European viewpoints regarding personal honor find perhaps their most striking expression in the provisions regarding dueling. A large body of public opinion in all European countries deprecates the practice, and it is slowly dying out, although Italy, France, and Hungary still furnish a good many such conflicts, and they occur occasionally in Germany. The German code, like that of all European lands, regards dueling as a crime, but—and here is the characteristic difference—punishes it, not merely much less severely than is the case in America, but also prescribes the "honorable punishment" of imprisonment in a fortress, whereas the New York code, not content with imposing a very severe sentence, provides further expressly that a person convicted of dueling "is thereafter incapable of holding or being elected or appointed to any office or place of trust or emolument, civil or military, within the state." I find no other paragraph in the whole code containing a similar express provision regarding an offender against any other law. In other words, American public sentiment, reflected in the penal codes, regards as an especially disgraceful, dishonorable, and attainting crime an action which is universally regarded in Europe as a manifestation of lofty feelings of honor, no matter how mistaken the method of defending these may be.

The German who issues a challenge to a duel commits a simple misdemeanor, as do also the seconds; but, if the challenge be withdrawn, no crime has been committed. The maximum penalty for issuing a challenge is six months' imprisonment in a fortress. In New York

the penalty can be seven years' prison at hard labor, with the same penalty for the seconds. Fighting a duel is punishable in Germany with fortress for from three months to five years. If one of the participants be killed, the sentence is not less than two years fortress, or not less than three years if the conditions of the duel were such that it must result in death. In New York the mere engaging in a duel is punishable with imprisonment up to ten years, "although no death or wound ensues," and a fatal termination is homicide. The New York code even provides, with doubtful constitutionality, that any New Yorker who leaves the state to fight a duel outside its borders is punishable within the state in like manner as if he had fought the duel there. This is also a special provision not found in connection with any other crime—another example of moral indignation affecting scientific penology.

The greater humaneness of the German code is exhibited in many other provisions. The New York code prescribes flatly that "morbid criminal propensity" is no defense. The German code, going to the other extreme, prescribes that an act shall not be regarded as punishable if the doer of it was at the time of committing the act "in a state of pathological disturbance of his mental faculties through which the voluntary exercise of will was made impossible." In practice this provision finds the most liberal application—so liberal, indeed, that it occasionally approaches the scandalous. Thus, a drunken chauffeur, who drove his car onto the sidewalk in Berlin and killed a woman, was recently let off with a sentence of six months' imprisonment. Nor is even this an extreme instance. The German code provides expressly that "youth shall at all times be regarded as a mitigating circumstance." Mild sentences are provided for youthful offenders from 14 to 18 years of age, and the tendency is steadily in the direction of greater leniency. Thus the age below which children cannot be regarded as criminals was raised less than a year ago from twelve to fourteen years. Most American states retain the barbarous common-law limit of seven years.

The German code provides in all but the gravest crimes for alternative milder punishments if mitigating circumstances exist, and in practice the benefits of such provisions are extended as broadly as possible, particularly to defendants whose previous records are good. It can almost be declared to be the rule that no man of previous unblemished character will be very severely punished for any crime. The whole spirit of German penology is aptly expressed by Wachenfeld, one of the leading criminal authorities of the country, in these words:

"The commission of even grave delicts is by no means necessarily an indication of the lack of a sense of honor."

And yet, despite the vastly greater leniency and humaneness of the German laws and courts, the volume of crime is relatively much smaller than in any American state. Indeed, there are single American cities which have more homicides, burglaries, and serious assaults every year than has the whole German Republic. One suspects that severe punishments are not so deterrent as is generally believed in America.

Case Law and the European Codified Law

By HANS SPERL

Dean of the Faculty and Professor of Law at the University of Vienna

[The following article was translated from the author's manuscript by Francis S. Philbrick, Professor of Law at the University of Illinois, and is a reprint from the March, 1925, number of the Illinois Law Review.]

THE history of a people is the history of its law. Never does this old truth seem clearer than when one compares the legal systems of European nations—the product of an evolution of two thousand years—with the legal system and the administration of justice maintained by English-speaking peoples.

Researches of recent decades have made manifest that although European legal systems have grown from the common root of Roman law, yet this in its turn is traceable through Greece to the Orient, whose legal monuments are only now beginning to be fully known. The seats of oriental culture of pre-Christian time—Assyria, China, India, Egypt—were possessed of a richly developed law, embodied in statutes, long before the Romans wrote their XII Tables. At that same time Germanic peoples can hardly have known more than a very primitive administration of justice, exercised by the folk itself or by its military leaders and local authorities. In Rome, however, there developed a mode of de-

claring law through special public functionaries; in the beginning characterized by a constant employment of judges drawn from the people and by the application of the living and unwritten law of the people. This was the most significant task of Rome's social development. As its population became stationary and then decreased, as public activities became systematized and a division of social labor developed, special trades and callings originated; including—thanks to the natural aptitude and tastes of the Romans—a profession of learned jurists. And this had become a necessity; for the growth of practical, technical, scientific and artistic knowledge, and of applications thereof, rendered inadequate such a simple legal system as had sufficed for their early ancestors.

The law grew more difficult, more inclusive. It grew beyond the vision and the knowledge of the citizen. Folk justice disappeared; first the use of laymen as judges, thereafter the very law itself that lived in oral tradition as *viva vox*

populi. The first were displaced by official jurists of legal training, who chose judicial service as a source of livelihood; the second, by written enactments.

These statutes were not at first put forward as new creations of the mind, as hitherto unknown and now newly conceived mandates of law and life, but rather as codifications of the existing, the traditional, the living law. Whereby they won the high dignity, the outward sanctity, of a primitive folk-law that was now poured, as it were, into a definite form. The oldest written legal sources in almost all countries were in fact revelations of a divine priestly authority, of a ruler worshipped as holy, of a prophet, or of a pope.

With the sentiment attached to the written laws because of their sacred origin there were now united the advantages of certainty in the rules of positive law, easy discoverability of its principles, and a uniform application thereof by all courts throughout the widely expanding jurisdiction of the new *lex scripta*. Henceforward, it was possible to study legal texts and to develop upon their foundation a learned and scientific law. Thanks to the availability of exhaustive codes designed to leave no gaps (*geschlossen*), the necessity—so extremely difficult in the law's earlier stages—of discovering its rules had disappeared. With all their powers jurists could now devote themselves to the exegesis of the substance of these codes, to the construction of conceptual systems (*Gedankensysteme*), of scientifically articulated principles (*Normengebäude*), which were at once derived from and led back to the rules, black on white, of the codes.

In the beginning these were merely records of existing, older, popularly developed law; but as a result of experience in the administration of law, of scientific doctrine, and of the needs that developed in social life, in consequence, too, of intellectual and political tendencies, they became independent creations of a law-making will—either of a monarch or of a national parliament. And thus they were freed from the attribution of a superhuman origin or of an immutable tradition.

More and more the written law gained in power, in dignity, and in exclusive authority, in such fashion that it crowded out legal sources formerly of influence, and proclaimed invalid and ineffectual the law formed by decisions of the courts. The great European codes of modern times have ascribed to themselves unique authority: they tolerate joint rulership with neither customary nor judge-made law. This is the principle of the French codes framed by Napoleon I. Articles 4 and 5 of the Code Civil (1803) bind the judge unqualifiedly by the statute, and deny to the judiciary the power to create by their judgments general and regulative principles of law. The basis of the judgment must be found *in the statute*; judgment may not be refused "under pretext of the silence, the obscurity, or the inadequacy of the statute" (*sous prétexte du silence, de l'obscurité, ou de l'insuffisance de la loi*).¹ The code² ascribes solely to itself the power to establish norms for the future.

The same attitude was taken in the code shortly thereafter decreed for the Austrian empire. This proclaims even more categorically the exclusive validity of the enacted law. The very first section of the Austrian code puts that beyond cavil by declaring that the civil law consists of the statutes, in their entirety; and section 10 adds that the judge may give heed to customs only when a statute is expressly based thereon. In case of such appeal the codifier still regards custom as merely an auxiliary source of law, when no other norm exists. Only very rarely (e. g., in section 1100 with respect to the days of grace allowable by local usage in payment of interest) does the Austrian code refer to such legal customs. When the Austrian Commercial Code (1862)—and in identical words the German—conceded to "commercial usages" the quality of legal rules applicable in commercial affairs (*Handelssachen*), they nevertheless granted them only a secondary authority, inferior to that of statutory rules. A

¹ Article 4, Code Civil.

² Article 2.

written rule of the Commercial Code can never be invalidated by a custom or a usage.

The Swiss Civil Code of 1907 provides in article 1: This Code shall be applied to all legal questions for which it provides a rule by literal word or by construction; only when no precept can be deduced in this manner from the statute "shall the judge decide in accordance with customary law or, where that too is lacking, in accordance with the rule which he would establish were he the legislator." We have here a clear and conscious ranking of legal sources: first, and of sole authority so far as it wills, the written enactment; only when this is silent, and all efforts at construction fail, shall the judge apply customary law; if that also is lacking the judge shall proceed creatively, applying to the lawsuit before him for decision a principle conceived by himself. And this last the code recognizes as a *principle of the law*. In an expression that has become celebrated the Swiss codifier has declared: the judge shall so decide as he, were he a legislator, would formulate the rule for the legal question before him. But the code admonishes him: "In so doing, he shall follow approved doctrine and tradition."⁸ He shall heed scientific doctrine, whether embodied in earlier judicial decisions or dominant in popular custom or in business usage; but without being bound thereby.

Thus the continental codes have assured to the written law either, as in the Austrian and French civil codes, an undivided authority within the civil law (and equally in the criminal law), or at least, as in the German and Austrian commercial codes and the Swiss civil code, a primary authority. They thus prevent the formation of any law outside of or contrary to the codes; and thereby they have drawn the boundary between the province of the code and the judges' declarations of the law. The judges are subordinate to the commandments of the statute. They may merely apply that; they may not create legal rules. With the utmost definiteness the

Austrian code has denied such power to those administering the law, just as in article 2 of the French Code Civil. Article 12 of the Austrian Civil Code expressly declares, "The decisions rendered by the courts in particular lawsuits shall never have the force of enacted law; they shall never be applied to other cases or to other persons."

The power to administer law, the custom of the court, even the greatest constancy of precedent, are no source of law. That, indeed, they *were* for centuries in German, French, Italian, and Spanish lands—so long as there prevailed therein the "common law." For that was a body of legal rules derived only in the smallest part from explicit enactment, in greatest part from the law books of Justinian, from the legislation of the church, or from custom; its sources did not exist in set words, it was the judges who revealed the law and made record of it in their judgments. But that changed when almost all countries, even Turkey, prepared complete codes for themselves. These, when their provisions are unambiguous, have now become the sole existing source of law. The change from an unwritten law, embodied in customs, in judicial pronouncements, or in unrecorded popular opinions, took place throughout Europe. Only Hungary remains an exception, since it has been impossible to obtain parliamentary action upon its drafts of a civil code, though completed decades ago.

Legal sources are in the same condition in Hungary as in England. Numerous statutes of modern times govern as law along with very ancient customary law. Most noteworthy, the *Tripartitum Juris Hungarici* of the Hungarian noble Stephan von Werböczy enjoys the authority of a statute. This work (which has attained an importance comparable to that of Stephen's Blackstone's Commentaries) has been adopted and maintained in judicial opinions as the chief source of the civil law.

It is apparently a law of evolution—explainable sociologically and historically—that all peoples, sooner or later, albeit in some cases only after arriving at

⁸ Article 1, clause 2.

the highest stage of civilization and the most advanced juristic life, go over to a written law, to codes; and that these, to make their rule exclusive, then declare invalid all law that rests upon custom or is discoverable solely through the decisions of judges, and (as has been shown of the French and Austrian codes) permanently enjoin any later creation of a customary or judicial law. This tendency toward written law, toward exhaustive codifications, has been emphasized and given political justification by the pretensions which national legislatures—i. e., the people through their constitutional representatives—have urged as exclusive creators of law. No other agency, they provide, shall have that power; neither the judge, through the substance of his decisions, nor legal customs that may develop irregularly in by-corners.

The present Austrian federal constitution, like that of the German Reich, so declares in its provision: All law comes from the people. This exclusive authority to declare law the people exercises through its legislative assemblies. For the judge and his independent declaration of law (*freie Rechtssprechung*) there is no more room. The judges are indeed to do justice (to declare what is law—*Recht zu sprechen*) "in the name of" the people, but they are to *apply* only the law laid down for the people in constitutional fashion. The judge is no father of the law; he is its servant. This is the reason why the power of the courts in continental Europe is so much slighter than in England and America. One might even say that the tendency of recent democracy is to make the courts ever more dependent organs of the written law, of the statutes.

It is true that before the war a certain literary movement, that of the so-called "free-judiciary" (*freirichterliche*) school—animated by a view of the English judicial system which became the fashion through a book of Adickes, the Oberbürgermeister of Frankfurt—thought to raise the European judge to the supremacy of a jural monarch, and endow him, not only with the capacity to discover and repeat the codified law

applicable to a particular case, but even with that of deducing legal principles from considerations of social justice, from a balance of interest, or from expediency; in short, to create a judicial law alongside of, if not indeed in the place of, the enacted law.

But the political wave of unrestrained democracy, jealous of its power, that has rolled over Central Europe since the war begrudges the courts any authority even approaching a power to legislate. More strictly than ever the judge is bound to the statutes enacted by the legislature as the exclusive representative of the people's will. Indeed, as a very recent instance in the legal history of Austria shows, the importance and independence of the judicial office has been limited even as against the administrative service, the executive branch of government. For under Austria's earlier constitution the judges had the right to examine into the validity of ordinances (regulations of administrative authorities, particularly of the ministers of state), though never of statutes; i. e., to determine whether their issuance was within the limits of administrative competence, and whether they conflicted substantively with any statute. But the federal constitution of October 1, 1920, has taken away this power from the judges.

In former times men looked upon this independence of the individual judge as against the government as resulting from a general independence of the judiciary, and considered it a security of the people against violations of statute and the irresponsibility of administrative officials. But to-day, if a judge is of opinion that an ordinance regulates a matter that falls within the legislative competence of parliament, he may not therefore regard it as invalid, and decide—as he formerly might—as though it were non-existent: he can only set out the action taken and his opinion thereof, and appeal to the Court for Constitutional Questions (*Verfassungsgerichtshof*) to nullify the ordinance as invalid or contrary to statute. A decision on this point the *Verfassungsgerichtshof* *must* render; and the judge must await and follow that. He is without independent

power to test the ordinance's validity. Even though the ordinance be manifestly in violation of statute, yet if the Verfassungsgerichtshof does not nullify it the judge must enforce it against his own better opinion.

This whole procedure would be less open to doubt if the Verfassungsgerichtshof thus called upon to decide the legality of administrative ordinances were a nonpartisan body, composed solely of persons of high prestige and professional knowledge, far removed from the potentates of the political party life of the hour. This is the case only in a minority of cases. Along with some jurists of the highest rank who enjoy the confidence of all parties, there sit in this court party men—delegated by parliament—who are deficient in professional attainments.

In countries of codified law all the detailed rules of the whole law are alike engraved on tablets; alike exist in cold letters. May we for that reason justifiably say that it is a paper jurisprudence, that it is inflexible, and without adaptation to the needs and the feelings of life and of the time? How does it compare with the Anglo-American system of a common law rooted in judicial decisions and in immemorial tradition? What is the relation of the statutory rule to the law that is actually *practiced* in European courts and in business life—the living law of men in their juristic contacts? Is this actual law a congruent realization of the law thought out and laid down in abstract form in the code? Or is it more than that? Even in countries with codes assumedly all-embracing, is the administration of justice an independent, ever-flowing source of new law that becomes united with the written law? Or may even displace this?

Jurists of countries of the Anglo-American common law might be inclined to believe that even in countries with all-embracing codes, like Austria, France, etc., the administration of law is a living source of law *because* the decisions of their higher courts are collected, published, and carefully heeded and studied by all jurists, alike theorists and

practitioners. Hundreds of volumes are filled with these decisions; counsel cite them; and judges base their decisions, and systematic text-writers their doctrine, upon a continuous citation of precedents. The higher courts themselves collect, arrange and publish their decisions; and from them they deduce principles and abstractly formulated legal rules by which they consider themselves bound. Indeed their dependence thereon is defined by special rules: for the Supreme Court of Austria, in Vienna, for example, by the statute of February 24, 1907, and an administrative ruling of August 7, 1850. This court enters in a judgment register (*Spruchrepertorium*) all its decisions upon novel questions of law raised in private litigation in the fields of civil law and judicial procedure. By such registration the Supreme Court binds, above all, that court itself in later ordinary sessions to the rule so recorded; this must be observed in later decisions.

But the recorded rule does not become a legal *principle* (*Rechtsnorm*); it does not in later cases bind courts of lower instance, nor the people, nor even in last analysis the Supreme Court itself. The court can abandon it, and decide differently the same legal issue, in a case almost immediately following. In this case, however, a fuller bench of fifteen judges (*Plenarsenat*) must hear and decide the case. A judgment thus given is entered in a *Judikatenbuch*, its solution of the litigated question being therein stated in an abstract form. But here again the decision thus adopted binds neither other courts nor subjects, but merely all sessions (*Senate*) of the Supreme Court itself; and that only until the recorded rule is altered by a plenary bench (*Plenissimarsenat*) of 21 judges, and the new and contrary rule is in turn entered in the *Judikatenbuch*. And this decision of the plenum still lacks the effect of an enactment (*Rechtssetzung*). It *still* has merely that of an application of law, an interpretation of existing laws. It too may in turn be altered or reversed by a new decision of the plenum.

But although the courts of continental Europe can by their decisions neither

create new legal norms nor make an exposition of the code that is binding for future cases, nevertheless their decisions have very great importance for the practice both of other courts and, particularly, of all lawyers. For several generations they have constituted an important part of all law libraries.

How shall we explain this importance, maintained in the face of a code, of decisions that are binding neither on other courts nor on the world outside them? Is it comparable with the function served by judicial decisions in England and America—in the countries of case law, in the field of unwritten law, where such decisions are sources of law and creative of law (*Rechtsquelle und Rechtsschöpfung*)?

The significance of the judgments of the supreme courts of European states is manifold. In the first place, as already said, the Austrian Supreme Court is bound by its own decisions on fundamental principles, recorded in its *Spruchsrépertoire* and *Judikatenbuch*, until it releases itself therefrom after consideration and judgment by an especially strengthened bench. Furthermore, in practice they influence extraordinarily the course of decisions in the lower courts, albeit not statutorily binding upon them. This is not because the judge acts as though he *must* discover in the decisions of the supreme tribunal a legal *norm* given him to follow. But he thinks in a practical way, with the desire to minimize litigation. He knows perfectly well that his judgment, if opposed to the established precedents of the Supreme Court, will be attacked; and if not in the first appellate court then certainly in the second will be reversed.

Be the judge of first instance ever so sure that his view of the law is correct, and not that of the Supreme Court, still he will only with difficulty resolve to open a hopeless battle of opinion with the last and ultimately controlling judge, at the expense of litigants whom he would thus compel to seek through appeals a final result which is already clearly foreseeable as inevitable. True, the judge should always, without exception, construe and apply the code according to

his *conviction*; for he is in duty bound to apply *the law*—and not the judgments of the Supreme Court. But the judge of first instance will not always have the intellectual power to combat the authority of the highest tribunal, nor will he be able to close his mind to the suggestion that a course of precedent permanently maintained—possibly one retested by a strengthened bench and carefully pondered by pre-eminent members of the judiciary—*must* after all be entitled to an extraordinarily strong presumption of its correctness. He will not be so sure of his own view, and, subordinating this, will bow to the view of the higher court, and decide in accordance with that. And thus he will often protect his judgment against appeal; for counsel will perfectly understand that the only judgment that they could gain from pursuing all legal remedies, up to the Supreme Court, is already theirs, and that an appeal would therefore be superfluous. A consistency of decision, visible in the published judgments of the Supreme Court, thus spares litigants the road through courts of successive jurisdiction, by indicating reliably to the lowest court how by its judgment so to declare the law between the parties as to conform to the indubitable final result.

In view of the procedural arrangements of the Austrian Supreme Court already mentioned, the past decisions of the court thus acquire a very special importance, since they serve to create and to preserve, not only in that highest seat of justice but throughout the country's courts, a unity of law through a uniform administration thereof.

However, though the written statute constitutes for all courts and for all persons within the law (im *Rechtsleben* stehend) the sole source of law, though it is the instrumentality that enables factual relations (*Tatbestände*) to evoke legal relations and legal claims, nevertheless no *lex scripta* can be so artfully framed, no enactment of pure abstractions can be clothed in words so free of doubt, as directly and expressly to cover all factual relationships that actually occur. No acuteness of legislative thought, no pondering of words, can accomplish

such a result. One may more or less nearly approach the ideal of a statutory expression incapable of more than a single meaning, but one will never quite attain it.

In the application of the statute, factual relations will invariably present themselves of which the legislator in his prospective and abstract reasoning never thought, or to which he could not fit his rule. Notwithstanding this, the judge must decide: he will adhere to the statute—for that is his duty—so far as a solution can possibly be drawn therefrom; he will apply to it all principles of construction—those of philology, of history, of legal analogy; he will make a very part of himself the statute's dominant ideas (*leitende Gedanken*); he will seek to draw from its general purpose (*Gesamtabzicht*), from his conception of its ends (*Zwecke*) and consciously predetermined tendency (*Willensrichtung*), the unexpressed legal rule which he needs. But he will always test this by the norms and fundamental principles of the codified law.

In such an exegesis identical results by no means always follow. In place of the certainty of law that every codification seeks as its primary object there would again result, thanks to variable construction, uncertainty of law, variability within one and the same country of supposedly unitary law. The code would be construed and applied in a given place and year one way, and in years immediately following contrariwise. And at this point comes into play in every country the beneficent function of the Supreme Court. It brings order out of confusion, subjects to a unifying theory the contradictory interpretations of the law, gives publicity to this result in its basic decisions, and so directs the whole administration of the law. Yet, be it once again emphasized: not because *new* law is thereby established—no! but merely through the unfoldment (*Auffindung*) and record of the *existing* law. The statute alone remains controlling, and creative of law. Its construction may vary; but not its content.

An *understanding* of the substance of the statute that constantly becomes more

exact, more complete, more nearly adjusted to the ends of the legal order is the contribution of the Supreme Court's activity and of the reports of its decisions. Through the judgments of the highest court the legal system *implicit* in the totality of enacted law shall—to use a term of older German legal speech—be “purified” (*geläutert*), be ever more clearly “recognized” (*erkannt*) in its true content. New law is not produced; the existing law is ever more accurately disclosed.

The distinction between code-made and judge-made law is thereby emphasized. In the system of case-law judicial decisions are the sole identification (*Erkenntnisquell*) of the existing law. And this last—how does it arise? by what process? and when does it come into force as a command binding and justifying men? The mandatory rules (*normierende Sätze*) of a *statute* attain authority, are to be obeyed, must be applied by the judge, the instant that the legislative authority of the state has published its enactment, and fixed the moment when its validity shall begin. The statute then “comes into force.” But what is the act that creates, what is the natal moment of, the rules of law that lie concealed in judicial decisions?

It would carry us beyond our appointed task were we to undertake to answer these questions. We will confine ourselves to a few observations.

In the great majority of cases the judge applies established law; law applied immemorially by the courts, law attested by many decisions. But what if he meet with a set of facts never before presented to any judge, one for which no solution is discoverable in earlier adjudications? Or, though such be found, what if it appear to the judge unsound, because he assumes that since that decision, made perhaps many years earlier, views regarding what should be law (*das richtige Recht*) have altered; that the law's necessities—in other words, the regulation of men's relations and contacts that is essential to a salutary common life—have become essentially different? The judge must be free in this case to depart from earlier decisions.

New statutes must at times be passed in code countries when new law has become necessary; and even so in case-law jurisdictions the law must be renewed through judicial declarations of what law is (*Rechtssprechung*). But whence does the judge derive the substance of his new legal rule? Does he somewhere "discover" legal rules? Does he derive them from a *law of nature* that originated with and as a biological function of mankind, considered as a zoological species, and which—as such function—continues to develop *with* men? Or is a power granted to the judiciary independently to create legal commandments and legal norms? Is a judge a *legislator* if he decides by the law (*rechtlich entscheidet*) an individual case? Does his will to decide thus-and-so (*Entscheidungswille*) work *beyond* that case, no longer merely as a freedom to render a judgment (*Urteilswille*), but as a will to prescribe future law?

It is unnecessary to answer these many questions. Their mere statement suffices to indicate the profound difference between the continental European and the Anglo-American judge. The former's decision—as we have made manifest by the provision of the Code Napoléon cited at the beginning of this article—is forbidden to assume authority (which would encroach upon the legislator's appointed province) prospectively to regulate legal relations not yet even in existence. The continental European judge is bound to "find" the law implicit in the statutes, never to invent a law theretofore nonexistent. His judgments are accordingly in the logical sense of the word "*Erkenntnisse*"; a taking cognizance, through sound understanding and construction, of the legal order that lies *outside* of all adjudications. They are an echo of the statutory will; not declarations of the judge's own legal will. In short an application, not a creation, of law.

What has thus far been said of the relation of the judiciary to legislation was true of continental Europe, as also of the civilized countries of Asia and South America, down to very recent times: in theory it is still true to-day.

But here, too, the World War has showed its effects. Not that it set aside the principles stated; but it created conditions that temporarily compelled the courts to forsake prescribed and traditional paths and to seek new ones. Already during the war phenomena appeared with which the written law had not reckoned, which it had not foreseen. The almost complete stoppage of barter and money transactions with foreign countries, and the many prohibitions thereof; the adoption by the Entente powers—even by those formerly following antithetical principles—of the treatment of alien enemies traditional under the Anglo-American common law, and the retorsion thereby provoked; further, the effects of the blockade, especially the disappearance of goods, wares, and merchandise; fluctuations in monetary standards; and after the war changes in territorial boundaries and areas—all these things in places annihilated the thousand-folded net of legal relations woven by society, and in other places pulled it into distorted patterns that jarringly contradicted earlier legal concepts and the purposes of contracting parties. Contracts *could* not be performed, because the goods to be delivered were not available at home nor procurable from abroad, because their delivery or their transportation was forbidden by statute, or made practically impossible by traffic congestion, by insecurity against theft, or by excessive charges.

More influential than all other causes was the collapse of money values. One need only refer to the successive catastrophic depreciations of paper money that occurred, first with extraordinary violence in Austria, then in Poland, Germany, Hungary; but which also in victorious countries—Italy, France, Belgium—brought the paper money down to a fraction of its appropriate gold value under statutory standards. All contracts that called for the exchange of money for goods, for delivery of things or performance of services, were shaken to their uttermost economic foundations when the monetary payment specified was no longer, as once intended, of equal value with the thing to be exchanged or the

work to be performed therefor. And their divergence entered even into purely financial transactions. He who loaned good money would not accept the return of the same sum in bad money; he who sold something would not be put off with a selling price shrunk before payment to a tiny part of its original value.

On every hand the same question arose, though with the most varied applications: Which party bears the risk and the loss from depreciation of the currency? Countless actions were brought; for one party to every contract—sometimes both—fought for economic existence. As has been stated, existing statutes were of no aid; and it was with tardiness far too great, and only imperfectly in but very few fields of the law, that new legislation undertook to regulate these disjointed legal relations. The courts, compelled in their administration of justice to find immediate solutions, were forced to intervene. The shackles fastened upon them by the monition never themselves to set up legal norms in applying the law deduced from the statutes, they were *compelled* to shatter in order to remedy the sufferings of the time; in order that its novel conditions might be regulated by their judgments with more fidelity to economic facts, with more general utility, with greater justice than would have been possible through statutes conceived in the past upon the basis of totally different postulates and world conditions. Hence the decisions then rendered were of special importance. The first judgments of this kind afforded models and justification for those following, and thus in this field (of commercial law) there really did come to exist a sort of judicial law.

Yet this was only temporary. Legislation began to attack the problem—in Germany and Hungary through regulations regarding the readjustment (*Aufwertung*) of claims; in Austria, with less resoluteness, through special statutes such as the *Familiengläubigergesetz* (family creditors' law). Aid was afforded in Austria for a transitional period by providing special machinery for administering justice in tribunals to promote voluntary compromises (*Einigungsäm-*

ter, compromise tribunals). These were manned with laymen of the same trade or profession as the two disputants, under the chairmanship of a professional judge. Their competency extended to disputes over "deliveries" under contracts made during and following the war to the end of 1921—relating in particular to deliveries of goods, the grubbing of woodland (*Holzabstockung*), the rehabilitation of industrial plants (*Werkherstellung*), and to life insurance policies in terms of gold or foreign exchange, and relating similarly to compromises entered into down through 1917 for deliveries, at prices then fixed, after the war.

These compromise tribunals, set up in five cities, were bound to consult with the parties and then make them a compromise proposal. If this was accepted it was equivalent to a judgment, and was capable of execution. If both parties did not accept it they could still appeal to the *Einigungsamt* in a new character, viz. as an arbitration court (*Schiedsgericht*), which often happened. The statute expressly authorized the *Einigungsamt* to decree by its arbitral award, in accordance with equity (*Billigkeit*), either specific performance of a contract, total or partial rescission thereof, or the payment of damages. Thus the judges in these courts were relieved from a strict application of the statutory law, because this was unsuitable for a sound, a just, an economically practical regulation of the totally novel relations of fact which extraordinary circumstances had brought about.

However, this system of untrammelled judicial judgments came to an end with the 31st of December, 1923. On that date the jurisdiction of the compromise tribunals ceased, and the ordinary courts resumed their former jurisdiction. The old relation again exists between legislation, as the sole authority empowered to create abstract norms applicable to future factual relationships, and the judicial administration of justice as an application of those norms in conformity to statute.

As for generations past statutory law alone will rule in future on the European

continent. New phenomena in economic relations, in business transactions, and in social life will be dealt with by the courts simply by subjecting them to existing statutes; that is, by interpreting these—if necessary, by fully exhausting the juristic possibilities contained in their words within the sense and the spirit of the *lex lata*. There will be no regulation of these new factual relationships by the judge who first takes cognizance thereof, through a legal rule newly brought into the world by him. If it appears from the resulting body of decisions that new law is needed, legislation will intervene and give aid through special statutes: a procedure of every-day occurrence in Austria as in Germany, and also in other European states.

Thus the judgments of the courts—the appellate *Judikata*, and the collections of judicial decisions—are reinstated in their respective rôles already described. They will make permanent the interpretation of the statutes by the highest courts; will give this fixity through a constant and unifying point of view; will increase the law's certainty and lessen litigation by making evident in advance from the established doctrine (*Spruchpraxis*) of the Supreme Court either the hopelessness of, or the probability of success through, appeals. For judges of first and second instance they will serve as a source of instruction, and for practitioners as a practical indicator of the probable result of litigation. The decisions of the courts still serve two functions. They are, as already mentioned, the most important guide for the law-giver to gaps, imperfections, and inconsistencies in the statutes, revealing the direction in which altered circumstances demand legislation. For the theoretical study and the scientific cultivation of the law they are likewise of great value, for they provide juristic science its most important means of observation and experience, furnishing the jurist with life-like pictures of the working and the fruits of the actual legal system.

In the sense thus explained judicial decisions are esteemed in the countries of continental Europe. Not as the "finding place" (*Fundort*) of the positive law; not

as a source, recognized by the state constitution, from which new law may flow; but only as instructive for a sound understanding and just application of the statutes. These are purposes sufficiently high and important to explain why men collect and study the courts' decisions and utilize them as significant guide posts in the application of a code.

Continental countries and jurists will never bring themselves to abandon the exclusive authority of statutory law, and concede to a judicial decision the force of a legal rule binding in similar cases thereafter arising. One must, indeed, concede that no statute succeeds in including within its abstract norms all cases that arise. But here theoretical jurisprudence and the judicial administration of the law do their work. They decide specific cases by the law's fundamental conceptions. In the first place by bringing them within a definite statute or code provision; secondly, if no solution be so found, by uniting the controlling purposes and principles of the whole legal order (*Verbindung der Zweckgedanken und Principien der Gesamtrechtsordnung*), and then by deciding in accord with the spirit of the statutes and the motives of the law. The decision is made, in the end, because it *must* be made; because the judge cannot, like the Roman *judex privatus*, decline judgment with the excuse "*non liquet*." Hence it is the prevailing doctrine of continental jurists that a *statute* may have gaps, but not the *law*. Either from the code, designed to be without gap and all controlling, or from the legal order as a whole, juristic science and judicial decision have always discovered a legal rule concealed in each seemingly doubtful set of facts, though possibly one of first impression.

Continental Europe will abide by the principle of exclusive statutory law. However highly the value of judicial decisions might be estimated for the purposes heretofore explained, there would never be any thought of returning to a system of judicial law. Nor will a democracy that has grown powerful ever again consent to have its exclusive power of creating law legislatively taken away

to the profit of the judiciary. By its nature all law proceeds from the people: the judge is no legislator, not even though he should have received his office by election—and to that European continental countries will most probably for good reason always remain opposed. The separation of governmental powers, the distinction between legislator and judge, impresses us European jurists as a permanent and self-explanatory condition. Notwithstanding this firmly rooted view, the Anglo-American system of case law attracts in this country the greatest interest, precisely because it affords us an entirely novel picture of the development of legal rules.

The fundamental question which we put to ourselves in this connection is this: *Whence is the law taken by the judges* whose decisions are regarded by case-books, text-books, encyclopedias of law, and other judges of Anglo-American courts as the ultimate source of the general and special rules of the law of to-day? Who issued the law's command? Did no legal relation already exist between the litigating parties when they entered into a business relation, when they made their agreement, when one did damage to the interests of the other? Was a jural relation first created by the judge's decree? How can that be? If not already law, did it only become a legal rule as an opinion was gradually formed by the judge that the contention of one party was the juster? And was the jural relation created thus by the judge, and not by effect of the relation of fact in which the parties stood? Continental jurists have passed through twenty centuries of legal experience and science; long since they attained the stage, in legal evolution, of an exclusively statutory law, the only stage accordant with our democratic constitutions; and never again will they renounce the written law of the statute and return to judge-made case law.

Nevertheless, European legal science has received the most valuable stimulus from its temporary experience with case law, and from its increased study of the working arrangements of the American case-law system. Nor are we Europeans

less interested in the instructional method connected of necessity therewith, as it has been developed (particularly) in American law schools, and notably the Harvard Law School—through the "Langdell method," there originated, of casuistic legal instruction. Alike in Germany and in Austria both the study and the analytical exposition of the law increasingly concern themselves with the law that is *living* in the practical acts of men; the law that is actually practiced (or as it were "received") by men. It is not abstract legal principles; it is above all factual relations, the events and conditions wherein originate rights, to which the greatest attention is directed. This has happened with criminal law and criminal procedure—with an Austrian, Hans Gross, here in advance of all others; it is now happening in all fields of the private law. For the study of this there has been established (by the present writer with others) a much imitated "Universitätsinstitut" of applied law, to enable jurists to gain an insight into the practical arrangements of business life and the administration of justice, and to lay before them instructive cases chosen from judicial decisions. The collections of judicial decisions are also valued more and more highly, because they afford pictures of the legal conditions actually prevailing among men. They are prized, not indeed as a *source* of law, but—this, yes—for the *understanding* of the statutory law.

Europe will not forswear its achievement of a written statutory law, and an undivided authority of that statutory law, to return to a condition of uncertainty in legal rules which in historical fact it has overcome. One may indeed answer: "The text of your statutes lies black on white before the eye, but the substantive principles to be discovered therefrom is often uncertain, for your courts and your jurists are inconsistent, and variantly interpret the same statute." True enough; that is unavoidable, for the verbal expression of the statutory rule, be it ever so clearly conceived and a single meaning intended, does not always accord with the draftsman's enactive intent. And even were this oth-

erwise, the legal rule expressed receives an uncertain and unlike interpretation by those who read it; they read out of it a variant content—but only in the smallest minority of cases requiring its application. Speaking generally, the code already controls the friendly arrangements of business affairs, and of everyday life in its contacts with the law. And it is often even unconsciously applied; for the rules of the civil, commercial, and criminal law belong to the common knowledge of the people and are gradually as a matter of course becoming a part of the training of every person active in business or public life.

This, then, is the decisive point regarding the whole contrast, the great contrast, between judicial or case law and statute or codified law: written codes are not accessible to jurists alone, nor even primarily intended for them, but for *everybody*; on the other hand, a library of case reports, text-books, commentaries, or encyclopedias is for *lawyers only*. The content of the great Eu-

ropean codes penetrates among the people. The statutes are so drafted that even the layman, the ordinary citizen, can understand them. Legal history affords us sufficient examples of this. The latest and the most brilliant is the Swiss Civil Code, which has already become—as the Code Napoléon and the Austrian Civil Code were once—a national treasure; a book written for the people, influential among the people, understood by the people. Law is no esoteric science that must be discovered through learned work from thousands of precedents, from judicial decisions in litigated cases—from cases which after all are not quite like the one now to be decided, and which perhaps come down from times in which there prevailed arrangements of life, and therefore a legal order, that contradict those of to-day. What judicial or case-law *cannot* be, that codified law *is*; a people's law, no jurists' law of a learned class, but an intellectual possession of all citizens, as befits our democratic age.

The Development of International Law

By MANLEY O. HUDSON

Bemis Professor of International Law in the Harvard Law School

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FOR some years now, it has been the current fashion to blame everything that goes wrong on the war. Most of us find it a simple and convenient thing to have a scapegoat ready at hand when difficulties arise. "C'est la guerre" has served us, not only as a substitute for explanation, but also as a barrier to inquiry and investigation.

But as 1914 recedes into history, many of the general assumptions of the good old war days begin to be challenged, and we are pressed more and more with demands for fuller answers than we gave

to many questions during the heyday of nationalistic enthusiasm. The peoples in countries which were opposed in the war no longer regard each other with such deep suspicion, and even the causes of the war itself now seem more difficult to unravel than we had once regarded them. With the restoration of perspective and calmer judgment, with a greater willingness to see the common interests of all peoples, instead of the antagonisms of a few, we are coming into a position where many of the major postulates of our international polity may be re-examined

and where new foundations may be laid for the future that lies ahead.

Fresh opportunity is knocking, not merely at the doors of the politicians, though theirs is perhaps the greatest call for service that has come out of the war. It knocks also at the doors of our legal profession, and insistence is louder than ever before that we find some way of bringing our international law up to date with the world in which we live. Even in the excited periods of the war we lawyers were not immune from suspicion. Perhaps we were never quite absolved from guilt in connection with the lawless situation which inaugurated the war. There lurked in many people's minds a feeling that our failure to build a system of laws which no people would dare to violate had enabled particular peoples to play their rôle in causing the war.

The Hague Conferences became most unpopular, and the man on the street came to be certain that international law had broken down. As the fighting progressed, the people of all countries looked anxiously for some law that would restrain their enemies, and it did not seem a bit inconsistent to combine the demand for such a law with an utter unwillingness to have it interfere with their own belligerent activities. Since the fighting ceased, there seems to be a curious paradox at work in lay minds, a disposition on the one hand to say that the war showed that international law is of no value when war comes, and a demand that a supposedly nonexistent law be clarified and simplified in an international code. The demand is becoming more and more insistent on this side of the Atlantic, and it promises to make our position in the legal profession anything but comfortable if we fail to hearken to its meaning. Fortunately, it adds to our opportunity as well as to our responsibility.

The Existence of International Law.

The notion that our present international position is a wholly lawless one, that as yet we have no law regulating the intercourse of states, threatens to have very harmful consequences. It seems to

be at the bottom of much of our tolerance of the delay with reference to adhesion by the United States to the Protocol of Signature of the Permanent Court of International Justice. Even the chairman of the Committee on Foreign Relations of the United States Senate has lent encouragement to this excuse. In a recent magazine article, Senator Borah said: "A court without a body of laws under, and in accordance with, which it may function would be unworkable, and, if workable, most undesirable—a menace." And in another place he speaks of the necessity of creating international law as a condition precedent to our giving support to the existing World Court.

Of course it is a mischievous fallacy to say that we do not now have a most important body of international law in the construction and application of which the judicial process is essential. As many as eight hundred current international treaties have been registered with the Secretariat of the League of Nations during the past five years, and each of the twelve cases handled by the Permanent Court of International Justice in the first three years of its activity, has involved a question relating to our existing treaty law. But so attractive to many people did the conception of the breakdown of international law become, that we frequently hear opposition to efforts to advance the administration of international justice based on the ground that no law now exists to be administered.

The Demand for Codification.

The demand for codification proceeds in some degree from a lax tendency to oversimplify the task of the legal profession. If law existed as a "brooding omnipresence in the sky," if there surrounded the earth, as the atmosphere surrounds it, a belt of law, readymade and complete, ever adequate for the solution of our problems if the race were but willing to reach out its hands for help, then of course our job would be a simple one. Senator Borah has recently put this thought in saying: "It would seem that there are certain fundamental principles of right and justice and peace

which could be embodied in international law supported by the public opinion of the world." And it is on the basis of this law that he proposes to "reduce international relations to established rules of conduct." It should require little experience in courts or in juristic inquiry to know that the law we administer is the product of our own minds, woven of our legal heritages, fashioned with reference, however inadequate, to our needs of the moment. If there was ever a time when a few principles of courtesy and comity would suffice for international intercourse, the weird complexity of our present world society has taken us far from that day.

Another lay notion which holds a spell leads people to think of law as something that is automatic. The illusion of certainty is not confined to the statement of the law, it is extended to its execution as well. Law is envisaged as a body of self-executing, self-applying, self-administering doctrines, waiting to be captured and ready to do their work quickly, with courts more or less automatons in the process. Senator Borah wants an international court, he recently told us at Philadelphia, to "function under a body of laws" and to "be governed in its power and jurisdiction by law," of which the "jurisdiction shall attach by reason of the nature of the controversy and by authority of law, and not by reason of the consent of the foreign offices of the different governments." This is simply an extreme statement of the conception of automatic law, removed from the reach of human hands serving human desires.

Both of these conceptions—the conception that law exists in space as the atmosphere exists and the conception that once captured it is capable of automatic operation—give some direction to the current agitation for codification of international law, and understanding of them may assist us to turn this agitation to account in our task. Certainly we cannot stop with pointing out the false basis. The tendency of law to lag behind the society which it serves is always strong, and our international law is notoriously inadequate to the everyday needs of our present world society.

The common phrase "codification of international law" is used by many people with little regard to distinguishing between three quite different functions. We might attempt a codification which would formulate and restate our existing law, much of which has come down to us as customary law. Or we might undertake extensive legislation based on a study of present day world society, and an effort to forge a law to meet its needs. Or we might attempt to bring about uniformity in the laws of various countries in matters with respect to which our common life makes diversity lead to difficulties. As a term of art, codification should doubtless be restricted to the first of these processes; in common parlance it is more often applied to the second; while some reason may be found for giving it the third meaning.

Uniformity in Municipal Laws.

To deal first with the process of producing uniformity in the municipal law of various countries, we have an experience in the North American continent which is not without some interest in the field of international relations. For more than thirty years, our own National Conference of Commissioners on Uniform State Laws has been functioning and its labors have resulted in some thirty uniform acts, several of which have been adopted in practically every state in the Union. A similar Conference of Commissioners on Uniformity of Legislation now exists in Canada, and though it has held but seven annual meetings, it has already approved various uniform drafts some of which have been enacted in the several provinces.

Both of these Conferences resemble international conferences in many ways. Each state in the United States and each province in Canada sends commissioners, who are not infrequently government representatives. Their approval of a draft leaves the state legislature quite free, however, in its later consideration of the draft, and when a draft is finally enacted by several states they have no obligation inter se with reference to it. Various suggestions have been made for creating such interstate obligations, with

respect to certain legislation, by the interstate compact recognized in our American Constitution [I, 10, (2)], and in 1921 a committee under the chairmanship of Mr. John H. Wigmore reported that such compacts afforded "the only available method of securing needed harmony."¹

In the international field, the outstanding effort to make national legislation uniform in different countries with respect to matters of international import is now that of the International Labor Organization created by the Treaty of Versailles. The draft conventions adopted by the International Labor Conferences which have met annually since 1919 are very similar to the Uniform Acts approved by our National Conference of Commissioners on Uniform State Laws, though by reason of the governmental character of the International Labor Conference its work has far greater importance. Moreover, each government represented in the Conference agrees within eighteen months after the closing of a session to bring each draft convention "before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action."²

The decision at the sixth Conference in June, 1924, to postpone final "adoption" of any draft convention until after its consideration by two consecutive conferences³ should add greater importance to the work of the Conference and should insure its wider acceptance. In six years, sixteen conventions have been adopted by the Conference. One of them concerning unemployment has been ratified by no fewer than seventeen states.⁴ The Convention concerning employment of women during the night and the convention concerning the night work of young persons employed in industry have each been ratified by thirteen

states. In other words, the law of as many countries has been made uniform with respect to the subject matter of the convention.

Another notable effort to secure uniformity in municipal law has resulted in the framing of the Hague Rules of 1921 relating to the liability of cargo carriers for damage done to or loss of goods carried on ocean-going vessels. These rules were approved by the representatives of twenty-four countries present at an International Maritime Conference at Brussels in 1922,⁵ and were somewhat modified at a later Conference in 1923, and they have already been enacted into law in England in the Carriage of Goods by Sea Act, 1924.⁶ A bill introduced during the last session of Congress by Representative Edmunds (Pennsylvania) for the purpose of enacting them in the United States failed of passage. The Brussels Conference recommended three draft conventions to the governments represented, and though none of them has as yet been put into final form, it does not seem too sanguine to hope that this movement will be continued until most maritime countries will be living under laws not greatly divergent with respect at any rate to certain topics of maritime law.

From these observations on two fields of activity leading to the greater uniformity of the municipal law of various countries, it seems possible to conclude that much can be done toward removing friction and toward the smoother working of our world society if "codification" in this third sense is advanced and promoted. But it is only in limited fields that this work may be undertaken, in fields where national law either exists or is prevented from existing by the failure of different countries to act in unison, and in fields where divergence in the laws of different countries makes difficult and inconvenient the normal contacts of nationals and the normal intercourse of states.

¹ National Conference of Commissioners on Uniform State Laws, Report of the Committee on Interstate Compacts, 1921, p. 58.

² Treaty of Versailles of June 28, 1919, art. 405.

³ International Labor Conference, Report of Sixth Session, p. 223.

⁴ For a list of ratifications, see International Labour Office, Industrial and Labour Information, vol. XII, No. 12-13.

⁵ See the Report of the Delegates of the United States to the International Conference on Maritime Law (Washington, 1923); U. S. Department of Commerce, Trade Information Bulletin No. 297 (November, 1924).

⁶ 14 and 15 Geo. V, c. 22.

Restatement of the Customary Law.

"Codification" in its more artistic sense would be used with reference to the formal restatement of our existing international law, chiefly the customary law by which nations fashion their course in dealings with each other. Codification in this sense is being urged today chiefly because of the general despair with international law during the war. Yet the demand is seldom voiced for a formal restatement of the laws of war—rather it goes further to require that an international code shall include a provision making war a crime. The incongruity of coupling such a declaration with laws concerning the conduct of war is obvious, but apparently it is not generally appreciated.

One of the great reproaches brought against the Hague Conferences was that they concerned themselves so largely with the laws of war. Yet they did achieve an important result in this field, and the popular belief that it all came to naught in the war is not borne out by the facts. The conventions were so drafted that it is doubtful whether most of them were in any legal sense binding during the war, but they did furnish convenient pegs on which arguments could be hung and their existence must have had a moderating effect in many instances.

The Second Hague Conference looked forward to a Third Conference which would undertake the preparation of regulations relative to the laws and customs of naval war, as the laws and customs of war on land had already been codified in 1899. The London Naval Conference in 1908-09 was an attempt at codification in this field, but the fate of the Declaration of London in later years and the development of naval practice during the war do not augur well for development on such lines.

At the Washington Conference on Limitation of Armaments in 1922, a commission was created to consider whether existing rules of international law adequately cover new methods of attack or defense resulting from the introduction or development of new agencies of warfare since the Hague Confer-

ence of 1907, and if not so, what changes in the existing rules ought to be adopted. This commission met at The Hague early in 1923, and confined its work to the rules for the control of radio in time of war and to the rules of aerial warfare. Various rules were drawn up, and they will doubtless have influence on any future formulations in the same field though only the United States, the British Empire, France, Italy, Japan, and the Netherlands took part in their formulation. The powers had agreed at Washington to "confer as to the acceptance of the report and the course to be followed to secure the consideration of its recommendations by the other civilized powers," but two years have now elapsed and apparently nothing has been done with the rules formulated.

A somewhat similar fate has been encountered by the treaty drawn up at the Washington Conference concerning the use of submarines and gases and chemicals. This treaty purported to state the rules "adopted by civilized nations" and "deemed an established part of international law." These rules went beyond the practices of the war, and this was tacitly recognized in the invitation to powers not represented at Washington to assent to them. But though the treaty was signed on February 6, 1922, and though some others of the Washington treaties have been brought into force, it has never been ratified and is probably on the way to becoming a dead letter. Certainly the current talk about use of gases in the next war proceeds with little heed to the prohibition formulated in the treaty.

Undesirability of Codifying the Laws of War.

This experience does not greatly encourage an attempt formally to restate the laws governing the conduct of war. Even if such an attempt was desirable before the war, even if it did not then engross too much of the attention of the Hague Conferences, we have not been propitiously situated since the war for carrying on such work.

In the first place, there has never been a time when two large powers would not

have been excluded from such an undertaking—neither Germany nor Russia was represented at Washington in 1922, nor at the meetings of the commission at The Hague in 1923. In the second place, the powers that were victorious in the war were pretty sure to have things their own way in any such formulation since the war, and to veer toward a justification of their own conduct and a denunciation of the enemies' conduct while the fighting was going on. This was notably true in the framing of the treaty on submarines and gases at the Washington Conference in 1922. And in the third place, there has been no time since the war when sufficient and mature consideration could be given to the claims and interests of neutrals.

None of the more powerful states succeeded in maintaining its neutrality during the Great War, and a conference on the laws of war in 1919 might have paid scant attention to the claims which might have been advanced on behalf of the states which did hold to neutrality. Moreover, there is still some question whether any law of neutrality is to be recognized in the future, whether it is not true, as President Wilson put it, "that the day of neutrals is past." We are still too near the war, too unaccustomed to the League of Nations, and too far from the complete and effective outlawry of war to answer the question either way. Certainly no formulation of the law of neutrality as it was understood in the days of the Hague Peace Conferences will satisfy the world to-day.

I think this explains the attitude which was taken by Lord Robert Cecil and other delegates of the Powers when the first Assembly of the League of Nations met in Geneva in 1920. The Advisory Committee of Jurists which framed the original draft of the statute of the Permanent Court of International Justice had approved a recommendation proposed by Mr. Root and Baron Descamps calling for a new conference of the nations to restate the rules of international law as they had been affected by the events of the war, to agree on additions which the war had shown to be necessary to en-

deavor to secure general agreement on disputed rules, and to consider the subjects not yet adequately regulated by international law. When the recommendation came before the Assembly, Lord Robert Cecil, now Viscount Cecil, declared it to be a "very dangerous project at this stage in the world's history," and he added: "I do not think we have arrived at sufficient calmness of the public mind to undertake that without very serious results to the future of international law."⁷

With our present perspective on the psychology then prevailing, with our present knowledge of the difficulties of securing a conference of all the nations, and with our present desire to go beyond the steps then deemed practicable with reference to the tolerance of war by world society, is it not to be deemed a fortunate thing that this plan was not carried out?

Restating the Laws of Peace.

But if little hope lies in the direction of formally restating the laws governing the conduct of war, the same reasons do not apply to restating the laws governing normal relations of states in time of peace. In this field certain work has been done which has undoubtedly made for clarification and understanding. The draft codes of Bluntschli, Field, and Fiore have been very useful, and much more work along the same lines is needed. Yet it may be questioned whether even in this field codification is without its dangers of introducing rigidity and unresponsiveness into provisions of the law which on the whole are now sufficiently clear and understood to avoid great inconvenience.⁸

States are not greatly troubled to-day about the law affecting ambassadors for instance, nor indeed the law concerning territorial domain and jurisdiction. An unofficial restatement of this law along the lines now being followed by the American Institute of Law with refer-

⁷ Records of the First Assembly, Plenary Meetings, p. 746.

⁸ See Professor P. J. Baker's illuminating paper on "The Codification of International Law," in the British Year Book of International Law for 1924, p. 38.

ence to certain topics of American municipal law would certainly be helpful. It is more doubtful whether formal codes framed under official ægis would greatly help our situation. The most satisfactory code conceivable dealing with state-succession, acquisition of territory, servitudes, extradition, and immunity of public vessels, would certainly do little to relieve international tension. Nor would it satisfy the current demand for codification.

The difficulties of such formal restatement have been brought out in the efforts of the Conferences of American States during the past two decades. In 1906, a convention was concluded during the session of the Third International American Conference for establishing an International Commission of Jurists to codify public and private international law. The convention provided that the Commission should meet at Rio de Janeiro in 1907, but most of the governments, including that of the United States, did not ratify until after that time. Further negotiations were required, and the Commission did not meet until June, 1912.

At that time, four committees were organized to deal with public international law, and two additional committees to deal with private international law. The full Commission set a second meeting for June, 1914, but it was never held. The Fifth Conference which met at Santiago in the spring of 1923 has now reconstituted the Commission for the "gradual and progressive codification" of international law as well as the codification of "American private international law," and the Commission is to meet at Rio de Janeiro during the current year.

Extension of International Legislation.

The work of this Commission must necessarily be slow and unspectacular, and its promise does not satisfy the popular insistence for "codification." For that term is most frequently used to involve an enlargement of our existing international legislation to meet more adequately the needs of our time. It is not uniformity of the municipal law of different countries, it is not the restatement

of customary law which most peoples fairly understand, that is sought. It is the forging of new law to fill in the fissures caused by a rapidly changing society.

Such fissures do exist and many of them are creating problems of the first magnitude, both juridical and political. The difficulties to-day about dual nationality, about the nationality of married women, about the enforcement of national laws by measures taken outside marginal seas are examples of juridical situations which readily come to mind. To meet these, legislation is needed and not simply restatement. To apply the term codification to this process is as misleading as it would be to speak of codifying our own national law regulating industrial disputes. In large fields of human relations, both national and international, there is no such law to be codified.

Progress of International Legislation.

Now in the field of international legislation, a great deal has been accomplished in the last half century. A glance at David Dudley Field's "Outlines of an International Code," published in 1872, is sufficient to bring home an appreciation of the extent of our progress since he wrote. One part of his Code, perhaps its most important part, was devoted to "uniform regulations for mutual convenience." Under this heading he listed the following subjects: shipping, imposts, quarantine, railways, telegraphs, postal service, patents, trade-marks, copyrights, money, weights and measures, longitude and time, and sea signals.

In the fifty years since he wrote, we have got general multilateral international conventions dealing with each of these subjects. Three years after his draft was published, the Universal Postal Union and the Union of Weights and Measures were formed. It is a record of large legislative activity, and yet it has been all but ignored in the standard treatises on international law. Just as the American law schools tended until a decade ago to ignore statutes in their treatment of the traditional common law, so they still tend to ignore international leg-

islation in their dealing with the traditional international law.

Most of this body of international legislation has survived 1914, and in a short five years since the end of the war significant additions have been made. Multilateral treaties have been drawn up covering a variety of subjects, open to signature and ratification or adhesion by most of the states of the world, and constituting in effect law-enacting instruments for the better integration of international society. In fact, they challenge us to a re-examination of much that was said and written during the past century about the nature of international law and about its grounding in the philosophy of a law of nature of Grotius' day.

If the process can go on for a few decades, and if taught law does not prove too tough for the adjustment of our conceptions to the facts, we shall have to face a restatement of the jural postulates of international law and a clarification of the philosophical implications of our common assumptions. Such bland analogies as that of treaties and contracts will come in for critical examination, and we shall be fortunate if we escape the arid extremes of analysis which have recently appeared in American municipal law. In short, we are in need of what Mr. Pound has termed a "functional critique of international law in terms of social ends."⁹

Recent Additions to Conventional Law.

The principal recent additions to our store of international legislation are due to the functioning of the machinery which we call the League of Nations. The existence of that machinery has enabled conferences to be held with regularity, has introduced continuity in our legislative effort, and has afforded facilities for the necessary preliminary and subsequent attention to be given to render the legislation effective.

The work of the two Conferences on Communications and Transit, held at Barcelona in 1921 and at Geneva in 1923, is most suggestive of the possibilities

of this new legislative method. The Barcelona Conference drew two important statutes on freedom of transit and the régime of navigable waterways of international concern. These two statutes were annexed to separate conventions, the first of which has been signed or adhered to by thirty-seven states, and the second by thirty-one states. The Barcelona Conference also drew a declaration recognizing the right to a flag of states having no seacoast, which has now been signed or adhered to by thirty-eight states.

It was followed in 1923 by the Geneva Conference which drew a statute on the international régime of railways annexed to a convention now signed by some twenty-three states; and a statute on the international régime of maritime ports annexed to a convention now signed by seventeen states. It also concluded a convention relating to the transmission in transit of electric power, which fifteen states have signed, and a convention relating to the development of hydraulic power affecting more than one state, which thirteen states have signed.

Numerous other League of Nations conferences in the past five years have added to our statutory law of nations.¹⁰ In 1921, a conference on traffic in women and children brought up to date the convention of 1910, and its work resulted in a new convention now signed by thirty-nine states. In 1923, a conference on obscene publications brought up to date the old agreement of 1910, and the new convention has now been signed or adhered to by forty-five states. A conference in 1923 promulgated a convention on the simplification of customs formalities, now signed by twenty-nine states. The Fourth Assembly in 1923 approved a protocol on arbitration clauses in commercial contracts, which has now been signed by twenty states. The work of a conference now in session may produce a new opium convention, and within a few months another conference will assemble to draft a treaty on trade in arms and ammunition to replace the St. Germain convention.

⁹ Roscoe Pound, "Philosophical Theory and International Law," in *Bibliotheca Visseriana, Dissertationum Ius Internationale Illustrantium* (Leyden, 1923), p. 73 ff.

¹⁰ For lists of these treaties see the *League of Nations Official Journal*, 1924, p. 1127 ff.

This activity is in addition to the regulation of large public questions as, for instance, by the special international treaties as to the Aaland Islands, Memel, and Eastern European frontiers. It is in addition to the promotion of harmony in international administration in such meetings as that of the Paris Passport Conference in 1920. And it is in addition to the exploration of certain topics of private international law, such as the execution of foreign judgments.

Method of Future Development.

Such progress is encouraging not merely for its own sake but also because it points the way for the future. It proves a method, and now that permanent machinery exists for pursuing it, the method must be used more and more as the problems of world society urge themselves upon us. We have now a possibility of the functional development of international law, not by lawyers alone, but by administrative officials and special experts whose interests traverse frontiers and who are enabled to meet periodically for consultation and comparison of their results.

Now it seems obvious that unless the development of international law by this method is consciously undertaken, unless continuous effort is made to see that needs are met, the result is likely to be only piecemeal. Even with the elaborate machinery of the League working persistently and successfully, the subjects dealt with might be chosen only at random and many subjects might be wholly neglected. This was recognized by the Fifth Assembly of the League of Nations in 1924, when the Swedish delegation took the initiative in proposing that the various governments be invited to study the field and to say what subjects of international law, public or private, might be usefully examined with a view to their incorporation in international conventions by international conferences.

After extended deliberation, the Assembly decided that a committee of experts should be convened to prepare a provisional list of the subjects of inter-

national law, the regulation of which by international agreement would seem to be most desirable and realizable at the present moment, to solicit the opinions of the governments of all states whether members of the League or not, and to report to the Council on the questions which are sufficiently ripe for embodiment in international conventions.

An excellent committee of jurists has now been selected by the Council, with the veteran Hammarskjöld as chairman and with such well-known men as Fromageot, Loder, Schücking, De Visscher, Wang, and Wickersham among its seventeen members. The work of this committee will doubtless continue for some years to come, and it ought to serve most usefully as a sort of steering committee for the series of law-making conferences which the League has already inaugurated. If these conferences can go on for a quarter of a century, they promise a rich contribution of conventions which should bring our international law into much closer relation with the realities of our international life. With a court in existence to assist in applying such conventions when disputes arise, our opportunity is greatly enlarged.

It would seem to be along these lines that progress in "codification" may be expected in the decade that lies before us. I think we can count on larger results from this extension of international legislation than from any restatement of the existing law or from any introduction of uniformity into municipal law. We cannot view with supine indifference the popular dissatisfaction. It can be turned to our advantage if the profession will but give it purpose and direction. But our main reliance must be on ourselves and on our own professional efforts. Loyalty to Grotius will not pull us through, and we cannot content ourselves with quotations from John Marshall. Ours is the task of building on twentieth-century foundations a law that will meet the needs of a twentieth-century world society. We must construct not merely a body of law, but also a legal philosophy that will give it vitality and power for growth.

A Casebook on Thought and Reasoning

By ALBERT S. OSBORN

[Mr. Osborn is a member of the Bar of New York City and is the author of "Questioned Documents" and "The Problem of Proof." The following article is reprinted from the December, 1924, number of the *Virginia Law Review*.]

SUPERFICIAL thinking, inability to draw correct inferences from more than simple facts and conditions, and a low general quality of reasoning power are common human qualities. Fortunately, in many divisions of human effort plodding industry and a faithful attention to details bring commensurate rewards even to those with dull and mediocre minds. There are many men who are not required to think and to reason except in the most superficial way, and they go through life on the whole happy and contented, doing routine work which requires almost no mental effort. This variation in human ability and the requirements made on men no doubt contributes to human happiness. There are kinds and classes of human labor, however, in which something more is required in order to reach success than plodding industry and attention to details. One of these fields is the profession of the law.

Competent judges, who have opportunity to observe law practice in this country in widely separated fields and in many courts, are obliged to report that much of it is of very inferior quality. Too often and in too many places it shows illiteracy, inaccuracy, lack of preparation, lack of intelligence, and low moral tone. If there is any doubt as to this statement it can be dispelled by attending trials or by reading reports of actual trials in lands where the practice of law is a profession. A prime difficulty, of course, is the fact that there are many trying to practice law who should be doing something else; one lifetime is not long enough for them to learn how to do it well. There also are many

who may have the fundamental qualities, but who have not had that thorough training and vigorous mental discipline necessary to fit them for an intellectual profession. No one, of course, should presume to practice law, or be allowed to practice law, who imperils human rights, honor, liberty and property by stupid inefficiency. There are too many legal practitioners in this land of opportunity who are strangely out of harmony with the ideals and traditions of an honorable profession. Their qualities and their methods do not match the beautiful marble courtrooms in which their bad English, their bad manners, their low culture, and their incompetence are exhibited.

The ability to think clearly and reason accurately are the fundamental and essential qualifications of the lawyer. If he cannot learn, or does not learn, to do well these necessary things, he should not attempt to practice law for he is not qualified. One of the attractions of the profession is that it deals so largely with matters that appeal to the mind. The whole performance, from first to last, when properly conducted, is infused with the processes of thought and reasoning, and the question here under consideration is whether in law study and in law practice these intellectual elements have not been too much overshadowed by the mere task of gathering the materials for law practice. These materials are certain facts, or alleged facts, and certain legal propositions, legal precedents and statutes that have application. Interpreting materials is something more than the mere collecting of materials. The legal question involved in a lawsuit may

be the important one, requiring close, accurate reasoning and interpretation, upon which the outcome may largely or even wholly depend; but in many cases a contention of this kind has but little to do with the law. A certain procedure is followed and certain rules of evidence are applied now and then, but the performance many times would be more accurately described, not as a lawsuit, but as a fact suit. The finding, presenting, proving, discussing and interpreting of certain facts make up a large part, perhaps four-fifths or even nine-tenths, of trials at law, so-called.

A law suit usually grows out of a disagreement, either as to the existence of certain alleged facts, or the interpretation of them, as affected by the law, if the law has any direct application. The litigant asks: "Is my contention a sufficient basis for a suit, or a defense, and is there a reasonable probability of my winning?" Thus every lawsuit begins with an intellectual problem involving an interpretation of a state of facts and, incidentally, an interpretation of the law that applies. The first act is this act of reasoning to determine whether or not there will be a lawsuit. Many proposed suits end at just this point, and clients are either advised to settle the contention, or told that it is inadvisable to bring an action. The stupid advocate may lead his trusting client into a proceeding that never should have been begun.

The processes of thought or reasoning not only thus begin a lawsuit, but continue throughout the performance at every point, and an actual trial is quite accurately described as a contest in reasoning. This ability to draw correct inferences is necessary, not only in weighing the story of the client, but in formulating a trial policy and in meeting all the varied problems that arise in an actual trial. More probably than in any other kind of effort, efficient legal work thus requires prompt, accurate, constructive thought and reasoning. Besides the law and the evidence to consider, there are in nearly every case also problems of personality and other difficult questions and disturbing influences brought to bear. They must all receive intellectual

attention. Prejudice, sympathy and ignorance are nearly always present, and skill in coping with all of these difficult problems requires a study of much more than the pages of digests. Much of this special skill, no doubt, can only be developed in the school of experience, but the question here raised is whether even there, as well as during preparation, more emphasis cannot profitably be put upon this thought and reasoning phase of the work.

Real education furnishes the handles by which the mind gets hold of ideas. These handles are the facts of accurate, extended knowledge. Any plan or system of education, or of self-discipline, necessarily fails that aims to teach or to develop thinking, if it can be taught, without supplying these necessary materials. Vague and incorrect thinking is due, in part at least, to vague and inaccurate knowledge. While correct thinking thus must be based on correct knowing, and it is impossible to separate the mind from that with which it works, correct thinking and not mere knowledge is the main result sought for. We seek to know not simply to know, but in order to think and to do. More and more education thus aims to train and discipline the intellect as well as inform the mind. If the training of the intellect does not go along with the accumulation of knowledge, then this mass of knowledge in the head is alone of but little more value than that in the books on the shelves. There are walking cyclopedias in one volume whose extended knowledge is worth less than that on the printed pages of the twelve volumes.

Simply knowing is static while thinking is dynamic. When a man thinks, then he is, of course, performing the distinctly typical and the most important human act; and, if any help whatever can be given, the problem of education is to consider what can be done to improve this valuable power. A hundred can be found who know to one who can think, and in every field those who were given, or who have improved and developed, this power that comes through intelligent, constructive thought, are marked men. We describe them as "men of

good judgment," and they are sought for everywhere. In the field of the law they naturally are in the front rank.

Deliberate thought or reasoning is defined as a successive association of judgments and a systematic examination and progressive comparison of preliminary or experimental judgments, leading up to a final conclusion. There is no such thing as an isolated fact, and nothing is known until its relations are known. In any field reasoning thus takes facts, ideas, circumstances and conditions, and separates, analyzes and compares them and determines their relative values and proper relations and the correct inferences to be drawn from them. A new inference thus obtained from ideas, as well as from material things, is invention and may disclose a new relation or result not before known. The great inventor is first a keen and accurate observer and then a creative reasoner who is able to see with the mind.

Any discussion looking toward possible improvement of thinking and reasoning ability in general, or in any special field, is naturally preceded by the query as to what extent the doctrine of predestination applies to these human qualities. This is an ever new old problem that still must be considered by all who are interested in human advancement. We know that there is a mysterious something in the amount, or the balance, or the lack of balance, of human qualities that is inadequately described as genius because we have no better word to describe it. No one knows just what it is. While it is generally admitted that it cannot be directly acquired in any school, from any teacher, by any method, it is nevertheless the accepted theory of education that what is called natural ability can at least be improved, if not added to. Who can tell what Plato would have been without Socrates?

No matter what the natural endowments may have been, it is certainly true that all effective reasoning and the skilled use of the mind comes as a result of patient, sustained study and practice. Not to any one does this priceless ability come as a total and free gift from on high. The final quality of the mind ab-

solutely depends upon what is done with the mind; industry must be added even to the highest endowment.

It is, of course, true that in all educational processes this ability to reason must mainly be developed, not directly but in connection with other subjects of study. Every wise and efficient teacher is a teacher of it, and if in any phase of education any direct attention to the subject should tend to relieve other instructors of their responsibility in the matter then this direct attention would be a misfortune. The question is whether all could not be stimulated and assisted by a general emphasis on this quality in education and especially in legal education. Some of the technical discussion in the books on logic and thinking gives but little direct help in developing the ability to think. Some of it is much like bare discussions of grammar as a science of language which may have almost no relation to the task of acquiring the practical use of language as a means of conveying ideas. Notwithstanding their difficulty, however, some at least of the "hard" books on thinking must be found by the earnest student and faithfully studied. The thorough reading of them may be a valuable part of the discipline. One who has not acquired, and will not acquire, the habit of faithfully pursuing a difficult mental task for hours at a time will not become a thinker. Modern American education no doubt lacks thoroughness and has been too much tinged with the spirit of the kindergarten. He who must all the time be entertained while he is educated will hardly be educated.

That it is possible deliberately to practice thinking on a selected subject seems to be wholly unknown to many persons. There are many, not altogether unintelligent human beings, who have the notion that when they are not reading or talking, or doing something with their hands, or learning something, that they are doing nothing, and, sad to say, they often are. Many individuals are wholly unable to be busy with the mind alone. Much good thinking is no doubt made impossible by poor reading and poorer talking, although good talk, like good

reading, is of course a most helpful stimulator of good thought. Many persons are uneasy, if not almost terrified, to be alone with nothing to do, and when they have thirty minutes or more of free time, they are disposed frantically to grab something from the curious collections of printed matter on view here and there which too often does exactly what it is claimed it will do, that is, shorten life by killing time. This desperate expedient is only necessary to those who have not learned to think. Unwise and persistent reading is a refuge for the unthinking and often is a sign of ignorance and unintelligence.

An interesting habit-forming experiment, for the law student and for the worker in many fields, would be the definite employment of a short period each day, perhaps at the beginning half an hour, to be used for deliberate thought. If possible, this thinker should then be strictly guarded, the desk cleared, the papers put out of sight, and the intellect alone put to work. Preferably he will be alone; he will read nothing; he will make no marks on paper, but will simply use the contents of his mind, which ought to be sufficient for use in real thinking for at least thirty minutes! If during this period this man's secretary, or roommate, can truly say to inquirers that he is busy, and if by persevering practice he can make this one of the busiest parts of the day, then it might be the most profitable time. It would no doubt sound incredible, if not amusing, in certain places if the report should be made at this period: "Mr. Blackstone cannot be disturbed; he is busy thinking." If faithfully followed this practice might also develop an idea now and then, and one alone for that day might be worth more than all the other work of a great office, or the output of a great factory. The fact is now and then disclosed that there are here and there in positions of some importance those who have not learned to think. As a rule their tenure of office, however, is short, even if it begins at all, and the tragedy of the matter for them is that they can hardly be made to understand in just what quality they are deficient. Some men of this unfortunate class are trying cases and trying to prove

things in a court of law, and all they lack is the ability to think.

Simply to read of these matters, here or anywhere, or to listen to them in a classroom, is of but very little use unless the reading and the listening lead directly into definite action. Thinking is not learned by reading about thinking, but is only learned by thinking, and any one can be set down as a fakir who undertakes to teach any easy method of acquiring this faculty. It is not completely learned by "twelve easy lessons by mail," that purport to "develop personality" or "personal power" or anything else. Certain advertisements would lead one to think that there are many easy roads to wisdom as well as to wealth. The fact that so many become discouraged makes the accomplishment by the few all the more valuable. There is no doubt that defeat in these efforts often is due, not so much to poor brains, as to weak wills. Good intentions are not rare; persistent efforts are.

The adoption of the case method of teaching no doubt was an important step in advance in developing in the student of law the ability to reason. By this method the earnest student becomes able to find for himself ideas and principles in the words on a printed page. This performance is no mean achievement. This method of study no doubt stimulates thinking when in the main it is a quest for principles and not merely the finding of definite answers to certain definite problems. In any field if one only learns a routine, like a plumber, with no attention to the principle involved, he may become a "practical" man who can find precedents, but he will not be a professional man. It is not likely that he will add anything to that which came to him.

An examination of law books and books for lawyers, and entrance examinations for admission to the bar, discloses what appears to be insufficient attention to these questions of thought and reasoning. A short shelf will hold all the special matter that is available even in some of the larger libraries, and there are many lawyers who do not own a printed page on the subject, nor do they know where it can be found even if they

know what it is. It is, of course, true that the total content of the law is now so stupendous that it is easy to omit any phase of the study that may not seem to be absolutely essential. Professor Wigmore's *Principles of Judicial Proof* is a valuable and almost unique contribution to the limited literature in this field of thought development. The book deserves the most thorough study from cover to cover, but is perhaps better suited to the actual practitioner or to the advanced student than to the beginner.

Would it not be possible to put together a collection of graded material that would serve as the basis for a course of study and practice in this important phase of legal education? Could not a "Case-Book on Problems in Reasoning" be provided that would assist a little at least in developing greater interest in this valuable ability? A wealth of material illustrating all the varied grades and qualities of thought is on the shelves. Literature and history would also furnish unlimited additional matter. If a book of this kind has not been made, would it not be worth while for some competent author to try the experiment? This course might include certain whole opinions, good and bad, both ancient and modern. Mainly, however, it would perhaps be a collection of excerpts, without comment, ranging in length from a sentence or two, to a series of paragraphs or pages, which would furnish practical problems in thought and reasoning. These problems could range in difficulty from those involving the most intricate and abstruse reasoning down to examples of stupid argument, erroneous inference, and incorrect statement. Examples from the highest sources could, of course, be included for study and comment, illustrating the highest type of reasoning and the use of accurate and forceful language as its vehicle.

These excerpts would furnish examples for study, for argument, and for written criticism and commendation. Carefully written discussions would no doubt provide the best method of developing the subject and of discovering whether or not the student is able to solve the problem in hand, for what one cannot express he only feebly knows.

One who says he knows a thing but cannot express it usually is either deceiving himself or is not quite telling the truth. When on a given topic words refuse to flow off from the point of a pencil it is because there are no definite ideas back of the words. These various problems of thought could, of course, be made to include those which would involve the necessity of drawing inferences from and judging a great variety of material, including illustrations of inherent improbability, of partially hidden exaggeration, of extravagant statement, of barefaced perjury, of plain bias, of contradiction, of unsupported assertion, of unwarranted inference, of double meaning, of confusion of ideas, of hidden and of obvious fallacies, of false analogies and of convincing truth and sincerity. Investigation has clearly shown that those familiar with the various phases of law study would be able to furnish concrete examples illustrating the best and the worst in legal reasoning on many phases of the facts as well as of the law.

Thought stimulating exercises and a developing discipline in reasoning could no doubt be provided for the student to wrestle with for perhaps an hour a day for at least part of a school year, or for perhaps a longer period of time. He could at least thus develop intensity of attention and learn by example the difference between illuminating language and jargon by developing the ability to test all language by the thought and reasoning test. One even might thus be led to make the discovery that the purpose of language is to convey ideas. This thought study might also be useful to more than mere beginners for unfortunately legal reasoning by those who did not begin yesterday is not always accurate, logical and scientific. Fortunately there have been many legal reasoners who have furnished illuminating examples for study. They possessed logical and scientific minds that not only did not become warped, but were strengthened by the difficulties and diverting influences, until they worked with almost mathematical precision. This Case-Book on Problems of Thought and Reasoning might assist in developing more minds of this class.

Law School Practice Courses and Moot Courts

Methods of Teaching Pleading and Practice

By DONALD J. BURKE

Professor of Pleading and Practice, in Charge of Moot Court Work, Creighton College of Law

WHETHER the law school should confine itself to teaching the theory of the law and expect the graduate to acquire for himself, during an apprenticeship with some established lawyer, necessary skill in drawing pleadings and trying cases, or whether it should undertake to impart to him practical training in Pleading and Practice, in addition to theoretical instruction, has been much debated. Something can be said on each side of the question.

On the one hand, it is simply impossible for the law school to turn out finished pleaders and skilled trial lawyers. They are the product of years spent in fighting real legal battles. Conditions of actual practice cannot be duplicated in the law school; at best, they can be but poorly approximated. This must be conceded.

On the other hand, it does not follow, because the law school cannot graduate experienced pleaders and seasoned trial men, that it should not impart some practical skill in drawing pleadings and trying actions. Law is a science, but its practice is an art, just as medicine is a science, and its practice an art. The law schools are educating men who will not spend their professional lives in speculating on abstract principles of law, men whose profession will be to apply those principles to concrete cases, and to fight for trusting clients real legal battles against experienced and clever opponents. The medical schools, although they provide an internship of one or several years for their graduates, are not satisfied to teach only the theory of medicine.

It is axiomatic that skill in any art can be acquired only by practice in that art.

The clinic is recognized as essential to every medical college. This clinic work is not provided upon the assumption that in school the student will be thus equipped with all the medical skill he will ever possess. But the medical school recognizes that its graduates are going to engage in the practice of the art of healing, and that they are not prepared even to engage in practice until they have had a reasonable amount of training in that art, in addition to sound learning in the science of medicine.

Graduates of the law school are going to engage in the art of practicing law. Without a reasonable amount of training in that art before graduation, they are not prepared to enter upon the practice of law.

Advocates of practical training in Pleading and in Practice concede that education in the theory of the law should not be sacrificed to practical training; that the latter should be subordinated to the former; that practice should be given only in addition to, and not at all in place of, theory; and that only a reasonable amount of practical training should be afforded. Their problem is to determine what is a reasonable amount of such training. Perhaps it is as much practical training as can be included in the curriculum without interfering with the education in the theory of the law. To this statement it might be replied that the time devoted in the schools to the study of law is very limited, and that any time spent in such practical work necessarily detracts from the study of theory.

This is not the place to argue the matter. It is the writer's opinion, based

on six years of teaching under the case system, with varying amounts of practical training superadded, that some practical training can be combined with the theoretical work in ways and proportions that will equip the graduate with fair working skill in the art of drawing pleadings and of trying contested actions, without interfering at all with his education in theory, and that such training can be so given as to fit him with even a better grasp on abstract principles. A student who, upon graduation, can draw a fairly creditable petition, without recourse to a book of forms, does not have, because of such skill, or the gaining of it, any weaker hold upon the principles of Code Pleading. Nor need his knowledge of the principles of Torts, Contracts, or of Equity be less because, while in school, he has drawn pleadings in actions involving those principles.

After all, his legal education does not consist in learning abstract principles of law. If it did, the case system were a big mistake. An important part in the education of a law student is the mental discipline that he acquires in analyzing cases and in applying principles, drawn from reported cases, to new situation in human relations.

Pleadings have matter as well as form. To draw a good petition, one must analyze the facts of the case, consider what principles of substantive law apply, and thus determine the constitutive facts that must be alleged to state a cause of action. One can derive as much mental discipline in legal reasoning from drawing an artistic petition in a slander suit as from studying a reported case involving the same principles of substantive law. In considering, with respect to a particular petition, whether to demur or to answer, a student must determine whether the petition is demurrable, and, if so, whether it would be good tactics to demur. In this work he should go through the same processes of legal reasoning on his own initiative that the court leads him through in a reported opinion ruling on a demurrer to such a petition. School work in drawing pleadings can be so shaped as to provide desirable mental discipline of this kind, and to give a good review of im-

portant principles of substantive and adjective law.

Perhaps the best indication of how the question should be decided is found in the fact that, after years of consideration of it, the law schools are coming more generally to give practical work in the use of law books, in making briefs, in drafting wills, conveyances, and contracts, in drawing pleadings and decrees, and in trying moot cases.

For many years it has been the aim of Creighton College of Law to afford its students as much practical training in preparation for the practice of their chosen profession as can be included in the curriculum without impairing to any degree their education in the theory of law. The difficulty has not been whether to give it or not to give it. The character and amount of the training and the methods of imparting it have presented the major problems. How the matter has been handled is briefly indicated in the following paragraphs:

During their first year at Creighton, the students receive a substantial course in Legal Bibliography, in which, under competent direction, they learn for themselves, by practice, how to use the books that are the tools of the profession. Practical work along this line is incidentally afforded through the second and third years in other courses. To illustrate this, here is one of many examples that might be cited. The Juniors, in their course in Trial Practice, after studying the cases on general and special appearance, and waiver of special appearance, were required to prepare and hand in exhaustive briefs of all Nebraska cases on the matter of special appearance and of the joinder of a defense on the merits with an objection to the jurisdiction.

In that course they are required at each lecture to recite on five or ten assigned sections of the Code of Civil Procedure. They are not required, of course, to memorize these sections, but by learning the substance of them for recitations the students gain a general acquaintance with them. Some of the more important sections are specially assigned, and these they must copy into their briefs, and the substance of these they are required to know for the examination.

While they were studying the cases relating to summons, service, and return, sections of the Code pertaining to those matters were thus taken up. They were provided with blank *præcipes* for summons and with blank summonses. These they were required to fill out properly and to hand in. They were expected to insert in the summonses the correct return and answer days, as fixed by statute, and they were required to make the proper indorsements on them of the amounts for which judgment would be taken in case of default. The officer's return was also required to be indorsed on the summonses. It is believed that this work, done in conjunction with the study of the cases on process, service, and return, assists them in getting more out of those cases.

During the time devoted to the cases on service by publication, they were required to turn in written answers to the following problem:

In an action in Nebraska to quiet title against a nonresident of the state, in order to obtain service by publication:

1. What allegations must be made in the petition?
2. What must be stated in the application for the order?
3. What must be stated in the order?
4. What date must the notice give as answer day?

They were required to get this information for themselves out of the statutes and to cite the sections involved.

In their course in Code Pleading the same class supplement the study of the cases by reciting on assigned sections of the Code, just as they do in Trial Practice, and they are given practical training in the art of drawing pleadings. In former years this practical work was given to the Seniors in a special course, but it is now combined with the study of the cases on Code Pleading in the second year. It is believed that the present arrangement is more satisfactory. Under it the students get a better grasp of the principles of Pleading, that they draw from the cases studied. They learn to apply those principles with greater facility, and, from actually applying them to the work of drawing pleadings, they make them their own and retain them.

When the division of the casebook treating of the petition has been completed, and while those cases are still fresh in their minds, a few lecture periods are devoted to drawing petitions. Some general instructions on the form of the petition in Nebraska are given, and they are required to hand in petitions based on a statement of facts. These are carefully corrected and criticized by the instructor. During the following lecture period they are discussed, defects are commented on, and suggestions are made. The petitions are criticized for substance, for general appearance, form, and style. The corrected petitions are returned to the students, and they submit others. The same method is pursued regarding answers, replies, motions, demurrers, orders, and decrees.

It is recognized that this work cannot develop the students into finished pleaders. But it is found that they do acquire a practical knowledge of Pleading, that they would not get from the study of the cases only, and that they learn the general appearance and form of the several pleadings. They become able to draw pleadings that do not appear amateurish.

In this work the school endeavors to instill into the students the pride that an able practitioner should take in his pleading, and the ambition to file pleadings that, instead of being merely sufficient, are real examples of good and artistic pleading. This object is kept in view during recitations on the cases. Thus more emphasis is laid upon the fact that a particular manner of pleading is bad, and to be avoided, than upon the remedy therefor.

All of this practical training culminates in the moot court work required of the students at Creighton College of Law. Its moot court system has been functioning for many years. For fifteen years that system has been fully developed.

The Moot Court of Creighton College of Law consists of two divisions, the Trial Division and the Appellate Division. In the Trial Division a member of the faculty presides, and he also presides over the Appellate Division as Chief Justice, with four Seniors as Associate Justices. Each Senior sits on two appeals.

Attendance at moot court trials is obligatory upon all students. Although no credit is given for it, a student must satisfactorily complete his moot court work to graduate.

In the trial of cases Freshmen serve as jurors and Juniors as witnesses; those not serving in either capacity are required to turn in memorandum reports of the trial. Attendance is checked and grades are based on these reports.

It is in the third year, after attending the trials in the Moot Court for two years, and after going through the training in Pleading and in Practice suggested above, that the student enters fully into the moot court work. During his senior year, each student prepares and tries two cases, carries these up to the Appellate Division on typewritten briefs, and there argues them. He sits as an Associate Justice on two other appeals and writes an opinion in each.

Usually two Seniors are assigned as attorneys on each side of a case. They receive a statement of facts of their case, upon which the pleadings and trial are based. A definite date is fixed for the filing of the petition or information, and an answer day is set. One of the regulations of the Moot Court is that nothing can be pleaded or proved that is inconsistent with the letter or spirit of the statement of facts. Under that statement pleadings are filed and issues shaped, just as in real practice in the District Court of Nebraska. Motions and demurrers are filed and argued.

Two witnesses are assigned to each side, except that in criminal cases the state is given three. Attorneys meet with their witnesses before the trial date and coach them in the facts to which they wish them to testify. Written questions and answers may not be used by attorney or witness.

Space will not permit a description of the trial. The case is tried as nearly like one in the District Court of Nebraska as is practicable. The jury is impaneled, in criminal cases the prisoner is formally arraigned, opening statements are made, witnesses are examined and cross-examined, and objections to evidence are made, sometimes argued, and are ruled upon. Motions for directed verdicts are not un-

common. Sometimes the jury is excluded, and such a motion is argued, but usually it is ruled upon summarily. Such motions have been sustained, but not frequently. After the evidence is all submitted, counsel argue the case to the jury, the court instructs briefly, and the jurors return written, individual verdicts.

Considerable difficulty has been experienced in drafting the statements of facts. To be satisfactory under this system, the statement must comply with several requirements: First, it must not be one-sided; both the plaintiff and the defendant must have a fighting chance under it. This requirement means that it must not be too definite or detailed; but it must not allow the attorneys too much latitude in shaping their evidence, or the two stories will differ so radically that the trial will not be realistic. Second, it should present a situation out of which an interesting trial can be built, one that will arouse and hold the interest of the students. Tort and criminal cases seem to serve best. Third, it must be prepared with a view to the appeal and be pregnant with a satisfactory question for appeal, one that is open, and can be decided either way.

In this work every effort is made to get away from the atmosphere of the lecture room and to create that of the court room. Creighton College of Law is singularly fortunate in its moot court equipment. It is provided with a large moot court room, that will seat over two hundred spectators. This room is completely equipped as a court room, with furniture that once served in the old Douglas county courthouse but that did not harmonize with the architectural style of the new building. It contains the old criminal bench, from which many prisoners have been sentenced to death or imprisonment. The bench is a beautiful architectural work, massive and impressive. It bears numerous imprints that the judge's gavel have made during exciting and memorable trials, when great lawyers have striven before it in legal battles for life or death. This moot court room and its equipment have contributed in no small degree to the success of the moot court work at Creighton College of Law.

Practice Court Work

BY CHARLES M. HEPBURN

Dean, Indiana University School of Law

FOR many years the Indiana University School of Law has had a system of Practice Courts as an integral part of its curriculum. The system consists of a court for the second semester of the first year, of another court for both semesters of the second year, and of a third court for both semesters of the graduating year. Each court is under the immediate direction of a member of the Law Faculty, who selects the cases to be tried, criticizes the pleadings, and supervises the trials. Every case is tried before a bench of two or three "associate justices," selected by the professor in charge from the student members of the court, and appointed for the particular case. At an adjourned session, after the argument of the case by attorneys selected for the plaintiff and the defendant, each associate justice reads and files a seriatim opinion, which also comes under the criticism of the "chief justice."

The work of the students in these courts, if successfully completed and certified to by the professor in charge, carries credit which is counted on the seventy-two hours of subject credit required for the LL.B degree. One semester hour of credit is possible in the first year Moot Court, two are possible in the second year, and four in the third year. The result is that the student can acquire through this Moot Court work about one-tenth of the entire subject credit necessary for his first degree in law. This subject credit, aggregating seven semester hours, is in addition to twelve hours of subject credit which may be obtained by the successful completion of classroom procedural study in Common-Law Pleading, Code Pleading, and Evidence. Of these nineteen hours, five are required for graduation, four of them in Common-Law Pleading, and one in the first year Moot Court.

This system raises various questions. The importance of the inductive study of the principles of Common-Law Pleading, Code Pleading, and Evidence may be granted; but why should a law student spend about one-tenth of his time in Practice Court work? The principles of Anglo-American substantive law are crowding the three-year curriculum to its limits. Every year the pressure becomes greater. In justice to our students, should we give so much time to the Practice Courts? Why not leave this kind of work to voluntary clubs, formed by the students themselves, and conducted without graduation credit? Apart from this, if a law school offers so much credit for Practice Court work, does it not encourage in its students a rule of thumb habit of thought, instead of the habit of a reasoned judgment from legal principles?

The answer to each of these questions is, in general, that it depends upon the way the Practice Court work is organized and conducted. There is danger of waste of time and effort in faculty conducted Moot Courts, as in student clubs for practice work in procedure, even when the student clubs really function. There is, no doubt, a special danger of rule of thumb work in the Practice Courts. But Practice Courts can, I think, be so organized and conducted that the student's reasoning power will be stimulated and strengthened, quite as effectively as in the best courses in substantive law. With no very burdensome co-operation on the part of the law faculty, the work of the Practice Courts, it would seem, can be brought into such relation to the student substantive law courses as to give a keen and lasting edge to many of their important distinctions.

But there is another question deserving of attention here—two closely relat-

ed questions. Every law school worthy of the name owes a duty to its graduates individually. Every law school owes a duty to the profession. Has the school discharged its duty to its graduates if it turns them out so poorly equipped for the practical work of the courts that, like blind leaders of the blind, they and their clients will almost certainly fall into the ditch? However it may be in the millenium, the trial of a case is still, in some measure, a contest of technical skill between adverse parties. Now and then the law graduate can obtain this training in a law office; but these chances are rather limited and apparently are growing less. A great law teacher has suggested that the young law graduate, when in doubt as to the proper procedure, should consult the clerk of the court; but this seems hardly advisable outside of Utopia.

We live in a law school age. Bacon's axiom has a wider range than it had three hundred years ago; we of to-day can well hold, not only every lawyer, but every law school, a debtor to the profession. One chief item in this debt is that of the duty to promote the efficient administration of justice. Do the law schools meet this duty adequately when they graduate students so poorly prepared for actual participation in the administration of justice that they cannot prepare or conduct a case properly, either in the trial court or on appeal? "We find no greater problem here," remarked Judge Drury, of the Kentucky Court of Appeals, last February, "than the proper disposition of cases that have not been properly practiced in the trial courts and are poorly presented here."¹

Through the delay which it causes, if in no other respects, this lack of training tends to the defeat of justice. Because of it, many of our American courtrooms might fittingly have above their portals the historic name, "The Hall of Wasted Hours." Possibly this maxim, recently quoted with approval by Mr. Justice McReynolds, might be inscribed above the judges' bench, in plain view of the barristers: "There is no debt with so

much prejudice put off as that of justice."²

The inefficient administration of justice in American courts presents one of our greatest problems. Forward looking lawyers, with here and there an association of lawyers, have been preaching the importance of a reform movement. In July, 1913, the American Judicature Society was granted a charter by the state of Illinois for the one great purpose of promoting the efficient administration of justice. To that end, the Judicature Society has been seeking, through almost twelve years, "to co-ordinate the efforts of bar associations and individual lawyers throughout the country."³

But this debt of justice is owing from the law schools no less than from the active bench and bar. Perhaps the moral obligation resting on the law schools is even greater. Certainly they could be of very great assistance in the cause, if they would undertake it in its length and breadth, and on a broad scientific and constructive plan.

The reform will not come from men with will-o'-the-wisp minds advocating a vague, doctrinaire idealism in procedure. Neither can it be expected from law school graduates who enter the active profession with only a smattering of our procedural law as applied in the courts. It is easy for such a graduate to slip into the well-worn grooves. Because of his lack of scientific training in this field of the law, he often becomes the easy and helpless victim of the local form book. But may we not hope eventually to see a reform in theory and in fact, when the law schools have equipped the profession with a large body of graduates who have acquired in their law school course a scientific knowledge of our existing procedure as applied in the courts, of its ineffectiveness in the actual work of the courts, of the causes of this ineffectiveness, and of the practical nature of the remedies proposed.

Whether training of this character and

¹ In *Swiss National Insurance Company v. Miller* (1925, U. S.) 45 Sup. Ct. 213, 224.

² See the article by Mr. Herbert Harley in 62 *Pennsylvania Law Review*, No. 5, p. 340 (1914).

³ *Axton v. Vance* (1925, Ky.) 269 S. W. 534, 538.

scope can be accomplished in the three-year curriculum is doubtful. We need a fourth year, which, in the State University Schools, it would seem, might well be organized as a research and legal clinic year, with a reasonably complete training for the efficient administration of justice as its chief objective. A good deal in this line, however, can be accomplished in the three-year curriculum, even on a ten per cent. of subject credit. And perhaps some further details as to the work in the Indiana University School of Law may be of service here.

When the first-year student begins his Moot Court work, at the opening of his second semester, he has spent about twenty-five classroom hours on the course of the action at law, from its commencement until it reaches a court of error. With this he has been given, rather briefly, the corresponding features of the civil action of the Codes, and their statutory references. He has also had a good deal to do with the examination and discussion of common-law pleadings and distinctions, and their relation to the facts of a given controversy. In his Moot Court work he is trained in the drafting and testing, in arguments before the court, of pleadings under the fundamental principles and with special reference to given states of facts.

A good deal of time is spent in the actual framing and testing of the plaintiff's first pleading, as based on facts furnished by the professor in charge, and on the proper way to meet this first pleading. Whatever method he adopts is to be tested out by him in proper form, under the criticism of the professor in charge. For the sake of the contrast he is required in some cases to plead out a civil cause, and then a criminal cause, both arising out of the same set of facts. The outcome here is carefully scrutinized by the instructor, and may be submitted by him to argument before a bench of three first-year students, whose seriatim opinions come under his criticism before the members of the court.

The work in Moot Court II, which

runs through the second year, is conducted as nearly as may be on the line of actual cases in courts of first instance. Through the courtesy of the county commissioners, this court is held once a week, from seven till ten in the evening, in the well-equipped courtroom of the local circuit court. Through a rare piece of good fortune, the judge of the circuit court, an enthusiast in the cause, sits as chief justice, with associate justices from the members of the court. Some time in advance of the trial a mimeographed statement of the facts of some actual case as they may have come at the outset to the plaintiff's lawyer is given to every student member of the court.

At this stage the actual case is carefully kept under cover. Its facts are given in gross, material and immaterial, substantive and evidential, actual and fanciful. The ideal in this preliminary statement would match what Charles O'Connor once wrote the South Carolina lawyers was the common practice in New York in his day—"to tell your story as any old woman, in trouble for the first time, would narrate her grievances." With this mass of facts and fancies, every student is required, as plaintiff's attorney, to institute the suit in the proper form, with its appropriate pleading, and in strictest accord with the rules which govern in an actual court of first instance.

One feature in connection with this second year Moot Court work is the Clerk's Office Seminar. Fortunately, again, we have a former student of the law school as deputy clerk in the local court. He conducts the students, in small groups, through the clerk's office, and brings them into touch with everything in the progress of a case in his charge until the trial docket is framed.

In the third year Moot Court, which runs through the year, the work is based on actual cases in progress from a court of first instance to the Supreme Court. Lawyers who have been engaged in the actual cases come down, generally from Indianapolis, to supervise, as chief justices, the work of the court, with special reference to its preparation for an appeal, including the writing of briefs. In

the latter half of the third year, a judge of the Supreme Court comes down to sit as chief justice in the argument of these cases before the Appellate Division of the Practice Court.

Here again student members of the court sit as associate justices, and read and file written *seriatim* opinions, for whatever objections the judge of the Supreme Court chooses to make, and for his advice. At the close of the case the results which had been reached in the actual case, whether in the trial court or on appeal, are used to point a moral at any stage of the progress of the case in the Practice Court.

One difficulty in connection with this work is the lack as yet of a *vade mecum* book for the Moot Court students, in all

these classes. Some books on trial practice approach it, but none as yet appear to meet it successfully. We need a book which will enable the Moot Court students to get, in a compact, simple, and analytical form, the course of proceedings in the fundamental things of a civil action, with precedents of how to plead and how not to plead.

It is rather surprising what an interesting collection of precedents of how not to plead are furnished in recent cases in the reports, as even a casual card index reveals. Perhaps this collection of cards, on precedents of how not to plead, furnishes an additional reason why the law schools should lend a hand in promoting the efficient administration of justice.

Classes in Court Practice and Procedure

By DUDLEY G. WOOTEN, A.M., LL.D.

College of Law, University of Notre Dame

THE Editor of this REVIEW has kindly asked me to contribute a short article upon the subject of the course in court work in law schools, or what is commonly called Moot Court practice. In recent years the law magazines and interested organizations have published a voluminous literature discussing the modern methods of legal education, most of which has had for its theme the superiority of the new over the old plan of preparing men for the bar, advocating apparently the exclusive monopoly of such preparation by the law school, and the total abolition of the former method of apprenticeship in a law office, preliminary to a course of systematic study in the classroom under professional teachers.

If it were relevant to the purpose of this article, a good deal might be said in moderation of the extravagant claims of the protagonists of the law school method as the sole agency for making lawyers. The only reason for the law

school at all is as a means to an end, namely, to fit students to become capable, successful, and eminent practitioners and jurists, qualified for the highest rank at the bar and on the bench, and it remains to be satisfactorily shown that the bench and bar of to-day, which are mainly the product of modern law schools, are distinguished for ability, skill, resourcefulness, eloquence, and fidelity to the responsibilities of the legal profession above a like number of practitioners and judges of fifty to seventy-five years ago, who came to the bar by the methods of preparation then in vogue.

There are more lawyers, even in proportion to population, than formerly, and there is a wider diffusion of theoretical information on legal subjects, a greater fluency in the exploitation of the academic and philosophical aspects of the law as a social agency, a keen and not always discreet concern for reforms and new classifications, and a modernistic

disposition to multiply and amplify the arbitrary and artificial topics of special study. In legal education, as in all the other departments of modern educational effort, there is the tendency to syndicate and standardize both the content and the methods of instruction, producing a stereotyped uniformity of professional attainments and a monotonous mediocrity of professional achievements.

The perpetual laudation of present and projected plans of education, including that of the law colleges, is chiefly the propaganda of the pedagogic class, whose bias of pride and selfishness is apt to engender a spirit of arrogant assumption of exclusive wisdom and authority, strongly disposed to exalt the *teaching* fraternity at the expense of the *taught*, which is the really important factor in the whole problem of education of all kinds. When to this is added the fact that the great majority of the teachers in the law schools, whatever be their zeal and scholarly equipment, are men who have had little or no experience in the actual practice of the law, or are giving to their school work only a remnant of their time and labor, it is not unreasonable to estimate with caution and a fair discount the dogmatism that asserts unconditionally the paramount virtue and value of prevailing and proposed methods of instruction.

What is here written is not intended to disparage the modern law school, but merely to suggest that its present development is in process of evolution and experiment, and to intimate that not all of the wisdom and authority on the subject of legal education, past, present, and future, is vested in the professional class of law school teachers. The chief danger of specialized knowledge and intensive effort in any one vocation is the tendency towards creating a narrow and one-sided view of the subject involved, and there are not wanting symptoms of this effect in the current opinions of the men most actively engaged in law school work.

Notwithstanding the variety and volume of the literature above mentioned, very little, comparatively, has been written in reference to the study of Court

Practice and Procedure, or Moot Court work, and this appears to be an unfortunate omission, in view of the fact that, if the law schools are to become the exclusive producers of educated lawyers, with the virtual elimination of the old-time training in law offices as part of or preliminary to preparation for the bar, the necessity for a thorough and practical course of instruction in court work, with allied topics, is not merely important, but imperative.

The writer of this article has had but a brief experience as a teacher in a law school. His knowledge and opinions are derived from a long and varied practice at the bar, with some years on the bench, in every sort of litigation and all grades of courts, state and federal, covering a period of forty years, about equally divided between two distantly separated sections of the Union. So that, whatever be his limitations in the field of didactics, such a career of active and intimate acquaintance with the law as administered in judicial tribunals ought fairly to qualify him to judge of the essentials of an effective course in court work, with incidental instruction in matters closely connected with the daily tasks of a lawyer. His own legal education was acquired in what was then considered to be one of the best law schools in the country, after two years of reading law and doing clerical work in a law office, and most of his classmates had followed the same preliminary training before entering school.

At that time the Moot Courts were generally organized and conducted by the students themselves, who elected the judges and court officials and proposed the cases to be tried and the procedure to be followed. The instructors, if called upon at all, acted merely in an advisory capacity. That plan was feasible and beneficial only by reason of the fact that the majority of the class had seen the workings of real courts and participated to some extent in the preparation and prosecution of litigated causes, besides having received clerical training in drawing up pleadings, writs, and other legal documents during one or more years in law offices. Since this

office apprenticeship is nowadays almost obsolete, the plan in vogue in those days would be impracticable and unprofitable to the students.

Under the altered methods now adopted by the law schools and championed by their sponsors, the course of instruction in actual Court Practice and Procedure is conducted as part of the required studies for graduation, and the Moot Courts are presided over by the member or members of the faculty assigned to that course. As this is the only opportunity afforded the students of acquiring any practical knowledge of the profession they are about to enter, it certainly merits a greater degree of attention and a more efficient development than it seems to be enjoying in most of the law schools.

The subject naturally and logically presents itself under two heads: The content of the instruction to be imparted; and the best method of imparting the desired knowledge and training. Also, in the opinion of this writer, as will appear later, the work of the class in courts should include, not merely the preparation and disposition of cases in court, but a close and clear understanding of various other branches of a lawyer's daily duties in his office, often the most interesting and lucrative part of his professional labors, and frequently leading to important litigation as an aftermath.

Of course, it is taken for granted that regular courts, both trial and appellate, will be organized by the instructor, acting as judge, which ordinarily should be assimilated to the judicial system of the state in which the school is located. Some definite system must be adopted, and the one naturally suggested is that of the locality from which usually there is the largest attendance, and where occasional opportunities may offer of seeing real courts in action. The object of Moot Court work should be to acquaint the class with all of the formalities of judicial proceedings; with the manner of instituting an action, at law or in equity; with the due and orderly preparation, serving, and filing of all pleadings, motions, notices, writs, and other

written documents used, or apt to be used, in the course of litigation; with the customary and formal language of such documents, and of amendments thereto; with the preparation of trial briefs, search for authorities and citation thereof, and the methods of analyzing and applying decisions to the case in hand, including oral arguments to the court; with the procedure for preparing and preserving the record for an appeal, and the briefing and argument of the case on appeal.

In short, the purpose should be to familiarize the students with the things he must do in his office and in court, in the actual handling of a civil or criminal action from its inception to its final determination. It is presumed that he has already learned the substantive and adjective law applicable to all the principal legal and equitable rights and remedies, and here he is called upon to put that knowledge into practice in concrete cases involving definite issues of fact and law. The great desideratum for this course in the law schools is a Moot Court Manual of Practice and Procedure—a compact, comprehensive, and accurate handbook, containing, in due order, the necessary steps and formulas in a suit at law and in equity, from its inception to its final determination. There is no such book extant, for the excellent texts and case-books on pleading and practice are entirely too voluminous and extended to answer the purpose in view. It should be so compiled as to cover all the essential matters common to American jurisdictions; the statutory details and differences being left to exposition by the instructor and a more intensive study by the class.

The selection and statement of cases to be handled by the class are, of course, subject to the best judgment of the instructor, and this is a more delicate and difficult task than appears at first hand. The cases must be such as will present substantial problems of law, with the adjective remedies applicable thereto, and the statements submitted to the class must be complete in every essential detail, omitting no relevant and material fact, involving no inconsistency or in-

congruity, capable of being investigated and argued from both sides of the questions in issue, and they must be rational and probable in their nature and consequences—such as can happen in the everyday experience of a practicing lawyer. They may be hypothetical or imaginary cases, invented by the instructor from possible combinations of fact and law, or they may be restated from reported decisions of cases actually tried and determined in the courts, disguised, so as not to be recognized and referred to by the students, or, if the instructor has had considerable experience at the bar, he may propound notable cases from his own practice. It will be the duty of the class to develop these cases by the proper pleadings, until the exact issues of law are clearly and definitely presented for briefing and argument before the court, and in this process the class should be required to follow the same methods as would be necessary and appropriate in a real, litigated cause. To secure that end the court should formulate and enforce a system of rules of court, regulating the service, filing, and hearing of all pleadings, motions, notices, etc.

In this consideration of moot cases it is, of course, assumed that the facts of the cases are predetermined and clearly stated in the submission and assignment of the same to the class. It is not believed that any great success can be achieved in attempting to try cases by the introduction of testimony through witnesses on the stand, nor does it seem productive of practical benefit to consume time and labor in mock trials, where purely fictitious issues of fact are to be evolved from an artificial or manufactured situation, created from a bogus conflict of testimony of witnesses, who must be drilled beforehand as to what they are to swear. Such proceedings are apt to degenerate into the burlesque, for the average student body is keenly alive to the absurdity of a ready-made controversy between "stuffed" witnesses. Occasionally it may enliven the monotony of class work, and test the ingenuity of members of the class to conduct a civil or criminal trial, with all the accessories

of witnesses, juries, arguments, instructions, verdicts, and the usual incidents of an actual trial; but the ensuing benefits will not warrant the expenditure of much time in that way.

By a judicious distribution and assignment of cases, selected and stated in the manner above described, it should be possible, in a class of 75 to 100 men, with two hours per week allotted to court work, to have every member of the class assigned at least three cases during the college year, maybe more; that will depend upon how much time is given to other and ancillary topics of study.

In addition to the court work proper—that is, the real Moot Court practice and procedure—it is highly desirable, and should be regarded as indispensable to a complete education in a law school, that various other practical branches of legal study and performance be included in the course of instruction allotted to the classes in court work. Briefing and drafting of legal instruments are already mentioned as among the things included in this branch of school instruction, but no very accurate definition has been given to these subjects, and their nature and scope are somewhat vague and variable. There are very many vital topics with which the law graduate ought to be familiar, if he is to be able to assume and discharge the duties of a practitioner, and which are necessarily omitted, or only superficially and hurriedly touched upon, in the regular curricula of most law schools; at best, they are only treated from the standpoint of theory and doctrine.

A student in his senior or third year has studied the law of crimes, of torts, of contracts, of real property, of trusts, of equity, together with common-law and code pleading and equity pleading, and during his last or third year he is studying the law of public and private corporations, of mortgages, of future interests, powers, etc. But how much does he know, or can he learn, under the system now in vogue in most of the schools, about the form and phraseology of corporate charters and by-laws, of forms of subscription to capital stock,

of how a promoter goes to work to organize a corporation to which he proposes to transfer his interest in a valuable invention in exchange for a majority of the capital stock, of the form of his written proposition and the form of acceptance by the incipient corporation, of the form of notices for the first meetings of directors and stockholders, of what the minutes of such meetings should contain, of the forms of oaths of directors and officers, of the form for stock certificates and stock books, and all the other absolutely essential documentary records that must be prepared and passed upon by any lawyer who pretends to undertake the organization of a private corporation?

What does he know about the form and essential contents of the contract and specifications for the erection of a building, a railroad, or an electric plant? How would he go about preparing and enforcing a mechanic's or a materialman's lien upon a building, an irrigation ditch, or a public highway? In what form would he draw a trust agreement between the inventor or owner of a valuable patent and a group of capitalists, who were induced to advance the money for the development of the invention, if they can be secured a proper share of the stock of a corporation to be formed for the purpose of manufacturing and marketing the article patented? How would he draw the bonds and deed of trust securing the same for financing a mine, a railroad, a factory, or a hydroelectric power plant? How would he examine an abstract of title to lands and give a reliable opinion thereon? What steps would he take and in what form would he prepare the papers for a writ of habeas corpus, of quo warranto, of mandamus, of prohibition, or of procedendo?

These are all part of the everyday work of a practicing lawyer, and they are the things any young attorney may

be called upon to do within a week after he opens his office. Yet, except in theory and as abstractions, they are not adequately taught in any law school with whose curriculum the writer has been able to familiarize himself. Since the practical aspects of the law are nowadays ignored or slighted by the abolition of office apprenticeship, it is the duty and function of the law schools to furnish the teaching of the above subjects. As long as the majority of the schools adhere to the three-year course of study, some progress in the right direction may be made by beginning court work in the second college year, so as to drill the class in common-law actions and pleadings as applied to those branches of the substantive law that have been completed in the first year's curriculum. This would leave more time in the third year for the study of the various subjects that are properly part of a practical preparation for the bar, some of which are mentioned above.

But the ideal solution of this problem, in this writer's judgment, is the addition of a fourth year to the law school course, and to devote that last year to court work proper, and to the several special branches of legal learning that are necessarily neglected, for want of time, in a three-year course. If this last year were given over to the practical work here outlined as belonging to the course in practice and procedure, it would supplement and round out the whole system of legal education now being maintained, and it would probably be more satisfactory than the ancient preliminary office training, as it would come after a thorough knowledge of the principles of the law, instead of preceding a college course of study. With two years of pre-law studies, this would make a six-year course for the bachelor's degree in law, symmetrical in its purpose and proportions, and none too long for the making of a well-equipped young lawyer.

Notes and Personals

The University of Michigan Law School has provided for a reorganization and extension of the graduate work in law. The important features of the new plan are as follows:

Two types of graduate instruction will be offered: (1) For the man primarily interested to increase his mastery of the law for purposes of practice; and (2) for the student interested chiefly in legal scholarship and in teaching law or writing as a career. The new plan is a very natural development of the scheme of graduate study which was formerly begun in 1912. Seminar courses for graduate work in law have been provided on the following subjects:

Business Associations—Professor Wilgus.
 Constitutional Law—Dean Bates.
 Criminal Law and Criminology—Professors Shartel and Waite.
 Jurisprudence—Professors Drake and Shartel.
 Legal History—Professor Durfee.
 Legislation—Dean Bates.
 Maritime Law—Professor Dickinson.
 Practice and Procedure—Professor Sunderland.
 Conflict of Laws—Professor Goodrich.
 Public International Law—Professor Dickinson.
 Public Service Companies—Professors Goddard and Stason.
 Roman Law—Professor Drake.

The above courses are open only to fourth year students who are candidates for the degree of S. J. D. and by special permission to a limited number of exceptionally qualified third year students or fourth year students who are candidates for the degree of LL. M.



Mr. Roscoe B. Turner, LL. B., Yale 1920, has been made Assistant Professor in the Yale Law School. Mr. Turner was admitted to the bar of New York in 1922, after receiving his academic training at the College of Idaho and the Yale Law School.

The first American professor to lecture at the University of Berlin since the war is Mr. Edwin M. Borchard of the Yale law faculty, who will be the guest of the Faculty of Law of the University of Berlin during the summer semester. He will lecture on American Constitutional Law and conduct a seminar in American Jurisprudence. Professor Borchard is a specialist on International Law and has written a "Guide to the Law and Legal Literature of Germany."

The thirty-fourth annual banquet of the Yale Law Journal was held in New Haven on April 3d.

Beginning in August, 1926, admission to the School of Jurisprudence of the University of California in the case of candidates for the degree of Juris Doctor will be limited to persons who hold the degree of A. B. or B. S. from the University of California, or an equivalent degree from some other college or university of approved standing. Students with senior standing will, for the present, be admitted as candidates for the LL. B. degree, which will be granted on the completion of the law curriculum. Such students, however, will not receive an A. B. degree, as heretofore, by offering the first year of law work in partial fulfillment of the requirements for the Arts degree. The curriculum has been revised, so that it is necessary for the student to include in his program both for the J. D. and the LL. B. degrees courses in Roman Law, Jurisprudence, and Legal History. A thesis, in addition to a high scholarship average, will be required for the J. D. degree.

During the Intersession and Summer Session several courses in law will be offered. A course in Commercial Law will be given by Mr. M. W. Dobrzensky, Lecturer in Commercial Law, and one in Practice by Mr. E. J. Sinclair, Lecturer in Law, during the Intersession. Professor Evans Holbrook, of the Michigan Law School, offers courses in the Law of Municipal Corporations and in Insolvency and Bankruptcy, and Professor Joseph W. Bingham of Stanford University Law School a course in Conflict of Laws, during the Summer Session.

Several courses in Criminology are scheduled for Intersession and Summer Session. Dr. Jau Don Ball, Lecturer in Psychiatry and Criminology, gives courses in Medical and Psychological Problems during both sessions. He also announces a course on Industrial Psychiatry during the Summer Session. Dr. Albert Schneider, formerly Dean of the School of Pharmacy, North Pacific College, Portland, deals with General Detective and Police Microscopy. Dr. George Washington Kirchwey, formerly Kent Professor of Law and Dean of the School of Law in Columbia University, and now head of the Department of Criminology, New York School of Social Work, treats Crime and Punishment in a course on that subject and our Penal System in another course during the Summer Session.

Professor George P. Costigan, Jr., of the faculty of the School of Jurisprudence is to lecture during the Summer Session at the

Michigan Law School. His casebook on Trusts will be out during the summer.

During the year special lectures were given by members of the bench and bar under the auspices of the Boalt Hall Law Association. Chief Justice Louis W. Myers, of the Supreme Court of California, gave an address on "Practice and Procedure before the Supreme Court"; Mr. Charles S. Cushing, of the San Francisco Bar, on "The Visit of the American Bar Association to London"; Mr. Edwin O. Edgerton, former President of the Railroad Commission of California, on "Practice and Procedure Before the Railroad Commission"; Mr. M. R. Jones, of the San Francisco Bar, on "Trials and Their Preparation"; Mr. Robert M. Fitzgerald, on "The Lawyer in the Making"; and Mr. Max Theilen, former President of the Railroad Commission of California, on "Public Utilities."

The moot courts were placed on a very systematic basis under the management of the Moot Court Council, composed of five students elected to the council and one faculty member, and great interest has been taken in the work this year. The first-year courts are compulsory, but the second-year are not. The American Law Book Company has kindly given two sets of Corpus Juris, to be awarded as prizes to the successful winners of the second-year competition.



Stanford University will hold its regular summer quarter, beginning June 23d and closing August 29th. The quarter will be divided into two terms, the first of which will close on July 26th, and the second of which will open on July 27th. An A. B. degree will be required of applicants for admission. Instruction will be given by a staff of nine men, some of whom are members of the regular faculty, and others visiting professors from other law schools. The complete program of instruction is as follows:

Torts I, 4 units (8 recitations weekly, first half). Professor Noel T. Dowling, Columbia University Law School.
Torts II, 4 units (8 recitations weekly, second half). Professor Dowling.
Personal Property, 4 units (4 recitations weekly, through the quarter). Assistant Professor Arthur H. Kent.
Suretyship, 4 units (4 recitations weekly, through the quarter). Professor Austin W. Scott, Harvard University Law School.
Trusts, 5 units (5 recitations weekly, through the quarter). Professor Scott.
Partnership, 4 units (8 recitations weekly, first half). Professor William B. Owens, Stanford University Law School.
Quasi-Contracts, 4 units (8 recitations weekly, first half). Professor George E. Osborne, Stanford University Law School.
Rights in the Land of Another, 4 units (8 recitations weekly, first half). Professor M. R. Kirkwood, Stanford University Law School.
Public Utilities, 4 units (8 recitations weekly, second half). Professor Arthur M. Cathcart, Stanford University Law School.

Insurance, 4 units (8 recitations weekly, second half). Professor Edward H. Decker, University of Oregon Law School.
Evidence, 4 units (8 recitations weekly, second half). Professor Albert B. Cox, Tulane University Law School.



The following courses will be offered this summer in the Law School of Columbia University: Pleading and Practice, Professor R. F. Magill; Domestic Relations and Insurance, Professor E. W. Patterson; Agency and New York Future Interests in Real and Personal Property, Professor Richard R. B. Powell; American Constitutional Law I and II, Professor T. R. Powell; Conflict of Laws, Professor H. B. Yntema; Partnership, Professor Underhill Moore; Personal Property I, Professor F. S. Philbrick; Criminal Law, Dean W. A. Seavey; Trusts, Professor E. D. Dickinson; Bills and Notes, Professor Zechariah Chafee, Jr.; Corporations, Dean H. S. Richards; and Latin-American and United States Law Compared, Mr. Isaac Alzamora.

A law school smoker was held on Friday, March 27th.



John D. Fleming, Dean of the Law School of the University of Colorado, has been compelled to be absent from his duties since November, owing to an attack of influenza. He is much improved, and expects to resume his lecture work before the 1st of May.

Mr. F. S. Luetthi, a practicing attorney in Boulder, was secured to carry Dean Fleming's class work during his illness.

For the summer quarter, the Dean and the other members of the regular faculty will be on duty, and in addition Prof. Victor H. Kulp, of the University of Oklahoma, and Prof. William A. Rhea, of the University of Texas, will give courses.

By special request, a course on Oil and Gas Law, will be given in the second term of the summer quarter. On account of the oil boom in Colorado, it might appear that Oil and Gas Law would become as popular as Irrigation and Mining Law have been for many years.



The College of Law of the University of Illinois this year was fortunate in securing Hon. Charles Warren, author of the "History of the American Bar," "The Supreme Court in United States History," and other notable works, to deliver a series of lectures. These lectures were given at Urbana in February. Their separate titles were as follows: "The Supreme Court, in the Framing of the Constitution;" "The Early Congresses and Judicial Power;" "The Proposal to Make Congress the Supreme and Final Judge of its Own Powers;" and "The Proposal to Vest in a Minority of the Supreme Court the Power to Control its Decisions." The lectures were highly instructive and exhibited great

research and industry. The opinion was universal on the part of both faculty and students of the Law School that it was a rare treat to have heard Mr. Warren in these addresses.

The scheme of summer session work adopted two years ago at Illinois will be continued during the 1925 session. The summer school has in fact become a permanent part of the educational program of the College of Law. The following courses will be offered next summer: Damages, Suretyship, Insurance, and Administrative Law. Professor George W. Goble, Professor William E. Britton, and Assistant Professor George B. Welsiger will teach. Summer work in law will be open only to students who have had at least the fundamental law courses of the first year. The session opens June 22 and closes August 15.

This year a committee of the law faculty is again at work studying minutely and in detail the various courses of the law curriculum, in the effort to prevent, where possible, the overlapping of courses, and to fill in here and there where gaps occur. Some progress has been reported. It is hoped by careful study that at least some improvement may be made in the utilization of the students' time, to the end that the law program may be as intensive and yet as inclusive as possible.



The plans for the 1925 Summer Session of the College of Law of Cornell University have been completed. The session will begin on Monday, June 22d, and end on Friday, September 4th. It will be divided into two terms, of five and one-half weeks each, and conducted along the same lines as the past two Summer Sessions. Registration for the second term will take place on Thursday, July 30th. Seven courses will be offered during the first term of the session, and six during the second term. Courses in Contracts, Agency, and Personal Property will be offered to students beginning the study of law.

The Faculty of the Summer Session will include four well-known teachers from other institutions, together with four of the regular members of the Faculty of the College. In the first term of the session, Professor Charles E. Clark, of the Yale University Law School, will give a course in Code Pleading; Professor Felix Frankfurter, of the Harvard Law School, courses in Administrative Law and Trade Regulation; Dean George G. Bogert, of the Cornell Law Faculty, the course in Personal Property; Professor Charles K. Burdick of Cornell, a course in the Law of Public Service; Professor Robert S. Stevens of Cornell, a course in Conflict of Laws; Assistant Professor Horace E. Whiteside, of Cornell, the course in Contracts.

During the second term of the session, Professor Ralph W. Aigler, of the University

of Michigan Law School, will offer a course in Negotiable Paper; Professor James W. Simonton, of the University of Missouri Law School, courses in Bankruptcy and Mortgages; Dean Bogert, a course in Sales; Professor Stevens, the course in Agency. The course in Contracts will continue through the second term of the session.

Hon. Thomas Ewing, of New York, formerly United States Commissioner of Patents, has been appointed nonresident lecturer on the Law of Patents. He delivered a series of six lectures at the College during the week beginning February 9th.

Hon. Leonard C. Crouch, Associate Justice of the Appellate Division of the New York Supreme Court, Fourth Department, delivered four lectures on Preparation for Trial and Trial Practice during the week beginning March 2d.

Professor Manley O. Hudson, of the Harvard Law Faculty, delivered a series of two lectures on March 30th and 31st on the subject, "The Prospect for International Law in the Twentieth Century." These lectures will be published in the Cornell Law Quarterly at an early date.



The College of Law of the University of Iowa is planning an elaborate celebration of the sixtieth anniversary of its founding. The celebration exercises will be held at Iowa City on Friday, November 6. Among the features will be the unveiling of portraits of Judge George G. Wright, the founder of the school, and of Chancellor William G. Hammond, its first full-time teacher and chancellor of the school from 1868 to 1881.

The Summer Session of 1925 will cover a period of ten weeks, and will, as during the two previous summers, include several courses dealing particularly with the mechanics of practice.



The summer program of the University of Chicago Law School includes the following courses:

Contracts I, Professor Woodward; Real Property and Conflict of Laws, Professor Bigelow; Criminal Law, Professor Burdick (Cornell University College of Law); Wills and Mortgages, Professor Wilson (Cornell University College of Law); Constitutional Law II, Professor Hall; Municipal Corporations, Professor Freund; and Evidence, Professor Hinton.



The Summer Session of Northwestern University Law School opens Monday, June 22d. The Summer Faculty includes Hon. Fred B. Branson, Justice of the Supreme Court of Oklahoma; Hon. Benjamin W. Coleman, Chief Justice of the Supreme Court of Nevada; Hon. John Fleming Main, Chief

Justice of the Supreme Court of Washington; Hon. Andrew M. Morrissey, Chief Justice of the Supreme Court of Nebraska; and Earl Casper Arnold, Professor of Law in George Washington University Law School.

Ground will be broken for Levy Mayer Hall (Northwestern University Law School) and for Elbert H. Gary Library of Law building on the new McKinlock Campus, Lake Shore Drive, Chicago, about April 20th. The University will expend appropriately \$7,000,000 in new buildings for the campus, and the Law School expects to begin work in its new quarters in September, 1926.

Dean John H. Wigmore, of Northwestern University Law School, is giving a series of lectures entitled "The World's Legal Systems," during the next two months, before Bar Associations in New Orleans, Texas, Arizona, California, Oregon, Washington, Colorado, Kansas, and Nebraska.



The College of Law of West Virginia University will conduct a Summer Session of six weeks, beginning June 15th. Courses in Wills, Public Utilities, Labor Law, and Quasi-Contracts will be offered. These courses will be given by Professors Trotter, Hardman, Snider, and Dickinson, all of the West Virginia faculty.

Judge John H. Hatcher, who was elected recently to the Supreme Court of Appeals of West Virginia, presided over the March term of the Practice Court. He also lectured on the subject of appellate practice. Judge Raymond Maxwell, of the Fifteenth Judicial Circuit, and Judge I. Grant Iazzelle, of the Twenty-Third Judicial Circuit, will serve as judges of the Practice Court at later sessions.



Dean Robert L. Tullis, of the Law School of the Louisiana State University, furnishes us the following items concerning his school:

He states regretfully that the Louisiana State University is about to lose, and the University of Texas about to gain, the services of Professor George Wilfrid Stumberg, who goes to the University of Texas for its Summer Session, and afterwards becomes a regular member of its teaching staff. Mr. Stumberg taught four years at the Louisiana institution, and then took a year of graduate work at Yale University, which conferred upon him the degree of J. D. cum laude in 1924. Mr. Stumberg's value as a teacher, already demonstrated in the Law School of his academic alma mater, has found recognition in the Texas institution, where a career of increasing usefulness may be predicted for him, if the Louisiana State University does not recapture him from its friendly enemy.

Professor Ira S. Flory, whose services in securing alumni subscriptions to a fund for the increase of the law library of the school

led to an increase so substantial as to enable the school to meet the library requirements of the Association of American Law Schools, will remain at the Louisiana University.

As the school had already met the other requirements for membership, it was admitted into the Association at the meeting of that body in December last.

In addition to the member of the faculty who will be appointed to succeed Mr. Stumberg, there will be another full-time professor next fall.

An increase in the library fee will insure better support of that important part of the school's facilities, beginning with the session 1925-1926.

With its early removal to the quarters provided for it in the new University the school will be better prepared to serve the people of the state and the cause of legal education.



The University of Kentucky College of Law will maintain a Summer Session this summer, beginning June 15 and ending August 29. The following courses will be offered: Introductory Course to Common and Statute Law in Kentucky and the course in Constitutional Law, by Judge Lyman Chalkley; Torts and Municipal Corporations, by Professor Harlan J. Scarborough; Property IV (Future Interests) and Bankruptcy, by Professor W. Lewis Roberts.

The law library has been greatly strengthened during the past year. All the state reports prior to the West National Reporter System are now complete, with the exception of eight states. Special efforts have been made to secure sets of law reviews, and the library now has complete sets from Harvard, Columbia, Michigan, Cornell, Iowa, Missouri, Minnesota, Texas, Nebraska, Oregon, Wisconsin, Tennessee, and Kentucky, and also the Illinois Law Quarterly and the Illinois Law Review, together with the later volumes of Yale, Virginia, Pennsylvania, West Virginia, and the American Bar Association Journal. This collection of law reviews is believed to be the most complete collection in the South.

Among the special lecturers of the year have been Judge Richard C. Stoll, of the Circuit Court of Fayette County, Justice Flem D. Sampson, of the Court of Appeals, Hon. J. P. Hobson, Commissioner of Appeals, Hon. T. E. Edelen, and Hon. Hugh Riddell. Several moot courts for the students have been active, and the Henry Clay Law Society for the discussion of current economic, legal, and civic problems has been reorganized.



Southwestern University School of Law, Los Angeles, is now closing its twelfth year, with a total registration for the year of four

hundred and sixteen students. This is an increase of more than fifty per cent. over the previous year's enrollment.

While the school moved into its own new home just a year ago, the present quarters already are overtaxed. Plans now include the leasing of necessary additional space in the adjoining new \$2,500,000 Los Angeles Chamber of Commerce Building for overflow classes next fall.

The Summer Session will consist of two terms, of six weeks each, beginning June 15 and ending September 5. Subjects offered in this session include: Contracts, Torts, Real Property I, Damages, Suretyship, Trusts, Quasi-Contracts, and Partnership.

Southwestern University School of Law last fall appointed a special Faculty Examining Committee of all its candidates for the State Bar Examination. This committee carefully examine each candidate in the law and exercise a salutary control over students who may be anxious to sit for the examination without adequate preparation. The candidate's necessary credentials are supplied by this committee when his case has been approved. The effective work of the committee has been highly complimented by the members of the State Board of Bar Examiners.

Perhaps this idea of co-operation for the purpose of restraining the as yet unfitted from sitting for the bar examination, and possibly entering the profession under the attendant handicaps of incomplete preparation, may be of interest to other schools.



Mr. Whitney North Seymour, a graduate of the University of Wisconsin and of Columbia Law School, joined the New York University Faculty of Law in February and is giving a course in Wills.



Instruction for the eighteenth annual Summer Session of the University of Southern California School of Law will open June 22, 1925. The Summer Session is divided into two terms, of six weeks each. The following courses will be offered: Admiralty, California Codes and Codification, California Government, Conveyancing, Criminal Law, Damages, Labor Law, Law of Persons, Mining Law, Mortgages, Oil and Gas, Partnership, Probate Law and Practice, Statutory Interpretation, Taxation I, and Taxation II (Inheritance Tax).

There will be no change in the personnel of the full-time instructors for the ensuing year. The full-time faculty consists of the following professors and instructors: Frank M. Porter, Dean; Charles E. Millikan, W. Turney Fox, Paul William Jones, Clair S. Tappaan, Claire T. Van Etten, and Glenn E. Whitney.

Clair S. Tappaan expects to spend next

year, his Sabbatical year, in Europe, in preparation of his courses in History of Law and Comparative Jurisprudence, which courses will constitute a part of the graduate work to be given by the school.



In accordance with the recent action of the Association of American Law Schools and the American Bar Association requiring one full-time instructor for each 100 students or major fraction thereof, the George Washington University Law School is planning to add next year an additional full-time instructor to its staff. During the past year there have been eight members of the full-time faculty.

The announcement for the Summer School has been recently printed. Two sessions of 6½ weeks each will be given, and the following subjects will be taught by the regular members of the faculty:

First Session—Personal Property, Professor Spaulding; Domestic Relations, Mr. Jordan; Agency, Mr. Jordan; Damages, Professor Moll; Sales, Professor Moll; Labor Law, Professor Spaulding; Conflict of Laws, Dean Van Vleck; Wills, Professor Evans; Water Rights, Professor Evans.

Second Session—Real Property I, Professor Updegraff; Legal Liability, Professor Collier; Insurance, Professor Evans; Sales, Professor Moll; Mortgages, Professor Collier; Conflict of Laws, Dean Van Vleck; Partnership, Professor Spaulding; Property III, Professor Updegraff.

Work is progressing on the new law school building, and present plans call for its being occupied some time during the summer. By the beginning of the next academic year the school will be installed in this new especially designed building.



The School of Law of the University of Texas will have a Summer Session of two terms from June 8 to July 20, and from July 21 to August 29. The following courses will be given: First term—Contracts, Equitable Remedies, Quasi Contracts, Legal Bibliography, and Oil and Gas; second term—Appellate Procedure, Bankruptcy, Contracts, Legal Bibliography, and Insurance. The faculty will consist of Professors Hildebrand, Bobbitt, McCormick, Green, and Stumberg.

Additions to the faculty for the long session of 1925-26 are Judge Robert L. Stayton, Professor John E. Hallen, and Professor George W. Stumberg.

A series of lectures were given April 6 to 10 on "The World's Legal Systems," by Dean John H. Wigmore, of Northwestern University Law School.



The College of Law of the University of Notre Dame will offer the following courses

during the Summer Session: Dean Konop will give Constitutional Law; Professor Hadley, Equity; and Professor Wooten, Domestic Relations and History of Law.



Manning Hall, the new home of the Law School of the University of North Carolina, was dedicated on January 23. The State Legislature and all the members of the State Supreme Court were present. Professor William R. Vance, of Yale, delivered the main address, which had to do with "Some New Values in Legal Education." Addresses were also made by Chief Justice Hoke, Mr. G. V. Cowper, President of the State Bar Association, Hon. Josephus Daniels, Lieut. Gov. J. Elmer Long, and others.

A twelve weeks Summer School will be held, beginning June 12 and ending August 29. The following courses for credit will be offered: First term—Personal Property, by Professor Frank S. Rowley; Legal Liability, by Professor Robert H. Wettach; Damages, by Professor Fred B. McCall. Second term—Criminal Law, by Professor Robert H. Wettach; Domestic Relations, by Professor A. C. McIntosh; Taxation, by Professor Albert Coates.

Announcement has been made that the degree of Doctor of Jurisprudence (J.D.) will be conferred on students who comply with the following conditions:

(1) Complete the work requisite for an A. B. degree or its equivalent before entrance upon the work of the School of Law.

(2) Study law for a period of at least three academic years.

(3) Obtain an average grade of B on all required subjects and enough elective subjects to make up an aggregate of 84 semester hours.

(4) Prepare and have accepted for publication in the Law Review an article of at least ten pages, or case notes which in the aggregate shall be at least eight pages in length.

A chapter of Delta Theta Phi, known as the Battle Senate, was installed in this Law School recently. Phi Delta Phi and Phi Alpha Delta are already established here.

A number of oil portraits have been lately presented to the Law School, including those of Dr. John Manning and Judge James E. Shepard.

A lecture will be given at the Law School on May 4 by Chief Justice Faville, of the Iowa Supreme Court.



The Legislature of Arizona, at its recent session, advanced the law work of the University of Arizona from the status of a school to that of a college of law. The act of the Legislature takes effect during the early part of the summer, so that the Law School will enter the academic year of 1925-26 as a College of Law.

The Law School will move next fall into the present library building, which is being remodeled; the Legislature having provided funds for a new library building on the campus.

Professor Andrew W. Anderson has been incapacitated by illness, and the courses allotted to him have been assumed for the present semester by the other professors. It is hoped that he will be able to resume his work next fall.

The Legislature amended the law governing admission to the bar in Arizona, so that the privilege of admission on motion, which has been enjoyed by law graduates of the University for several years, was revoked. Under the new law, all candidates for admission must pass the examinations.



The 1925 Summer Session in the School of Law at the University of Kansas will begin on June 11 and extend to August 14, a period of ten weeks. Courses will be offered in Criminal Law, Real and Personal Property, Constitutional Law, Trusts, Suretyship, Taxation, Partnership, and Trade Regulation. The teaching staff will consist of Professors Burdick, Strong, Hallen, and Van Hecke, of the regular faculty, and Associate Professor M. S. Breckenridge, of the Western Reserve University Law School.

Professor John E. Hallen, who has been a member of the faculty of the School of Law of the University of Kansas for the last four years, has resigned to become a professor of law in the University of Texas, where he has taught the last two summers. He will be succeeded by Mr. Philip Mechem, now serving as teaching fellow and graduate student at the University of Chicago Law School. Mr. Mechem, who is a son of Professor Floyd R. Mechem, of the University of Chicago, received his undergraduate training at Harvard, Chicago, and Stanford, and his professional training at Stanford and the University of Colorado. For two years he served as an assistant professor of law at the University of Idaho. Last fall he taught the course in Partnership at the University of Chicago Law School.

The Kansas chapter of the Order of the Coif will be installed formally on May 18, by Dean John H. Wigmore, of Northwestern University Law School.



Announcement for the Summer Session of the Drake University Law School shows that courses will be given in Contracts I, Torts I, Property III, Administrative Law, Wills, and Workmen's Compensation. Professor Hendrick will return to his practice, during the summer months, at Trinidad, Colorado; while Professor Rowley will return to his firm in Toledo, Ohio, for the summer. Pro-

essor Herbert D. Laube will be with the Drake Summer School for the entire twelve weeks, teaching Torts and Administrative Law.

A new course that has been designed by the head of the Claim Department of the Southern Surety Company in conjunction with the Dean of the Law School will be offered in Workmen's Compensation. The course is a three-hour course, extending over a twelve-week period, and is entirely experimental. It is open to those who have not had an introduction to Workmen's Compensation in their courses in Agency or Torts.

Dr. C. J. Hilkey, who was Dean of the Law School for many years, has accepted the Deanship of the Law School at Emory University, at Atlanta, Georgia.



At the meeting of the Board of Trustees of the Washington College of Law, Mrs. Laura A. Halsey was unanimously elected Dean and Treasurer, succeeding Miss Emma M. Gillett; the new Dean to assume her duties February 1st. The Board of Trustees conferred on Miss Emma M. Gillett the title of Dean Emeritus. Miss Gillett has occupied the position as Dean for more than a decade.



The College of Law of the University of Cincinnati will occupy the new law school building (the Alphonso Taft Hall) on the campus of the University next fall. In fact, it is expected that the school will move into the new building during the summer. No changes in the faculty are contemplated, except that a dean will be appointed in place of Mr. Alfred B. Benedict, who resigned last year. During the present law school year Mr. Robert C. Pugh, of the law faculty, has been Acting Dean.



It is expected that another member will be added to the faculty of the University of Idaho College of Law next fall. The new member of the faculty has not been chosen, however. A course on Legal Ethics will be included in the curriculum next year for the first time. Some redistribution of courses will be made. Professor Harris will give up his course on Torts and take the course on Evidence. Dean Davis will give the courses on Conflict of Laws and Trusts. No courses are given in the Law School during the Summer Session.



Commencing next fall, William and Mary College will maintain a School of Jurisprudence. There will be a progressive three-year course, leading to the degree of B. L. No one will be eligible to the degree who is not a graduate of a duly accredited college. The

third year of the course will include, among other subjects, Civil Law Doctrines, Legal History, and Roman Law and Jurisprudence, each course running for the entire year. This year there will be two professors, Mr. William A. Hamilton, and Mr. Peter Paul Peebles, A. B., B. S., A. M., B. L. The succeeding year it is hoped to add another law professor.



The following courses will be offered during the Summer Session of the School of Law of the University of Washington: Legal Liability, Professor Leslie J. Ayer; Persons, Professor Harvey Lantz; Legal Ethics, Professor Ivan W. Goodner; Taxation, Mr. J. Grattan O'Bryan; Statute Law, Professor Clark P. Bissett; Judgments, Executions and Garnishments, Mr. J. Grattan O'Bryan; Mortgages, Professor Ivan W. Goodner; Suretyship, Professor Harvey Lantz; and Administrative Law, Professor Clark P. Bissett.



Plans are under way for the inaugurating of a Summer Session in law at the University of Wyoming. Heretofore the Law School has offered no summer work, but an effort will be made to arrange for a beginning along this line this year. At present only a six-weeks program is being proposed, with the idea that a full quarter of work will be offered in 1926. Definite announcement of the program will be made later.

Practically all of the law students were in attendance from time to time at the recently concluded "Teapot Dome" case, which was argued before Judge Kennedy in the Federal District Court at Cheyenne. The eminence of counsel, the nicety of the legal questions involved, combined with the public importance of the suit, made the case an extremely interesting one.



The Kansas City School of Law has purchased a fifty-foot lot on Baltimore avenue, in Kansas City, on which it intends to erect its new building. The Executive Committee hopes to have the new building ready for occupancy in July, 1926. The lot was purchased for a consideration of \$35,000 and the building will be used exclusively for law school purposes.

Mr. Arthur D. Scarfitt, of Kansas City, has been added to the faculty, which now consists of forty-five members.



Stetson University College of Law has one hundred and six in attendance this year. The three-year program and the requirement of a full year of college work has not operated to the detriment, but rather to the improvement, of conditions. The hundreds of

volumes of law books added to the library last year have also strengthened the courses. All the work is done on the case style.



The Law School of the Y. M. C. A. College, Washington, D. C., sends in the following report:

Charles Melvin Neff, Esq., Special Counsel for the Federal Trade Commission, is giving a special course in Drafting of Pleadings, consisting of Drafting of Declarations and Pleas, Complaints and Answers, Demurrers, Replications and Replies, Cross-Complaints, Amendments, etc. Mr. Neff is well-fitted to give this course, having formerly been Professor of Law, University of Montana, and having the degrees of Ph. B. (Rochester), LL. B. (Columbia).

Mr. Neff's course will be given in the Summer School, in conjunction with the regular course in Moot Court, to be conducted by Dean Charles V. Imlay. Numerous courses will be given in the Summer School, which will serve to lighten the work of the regular school year, or supplement the work required for the degree of LL. M.

The baccalaureate sermon will be delivered to the graduating class on May 24 at the Cathedral of SS. Peter and Paul, Mt. St. Alban, by the Rt. Rev. James E. Freeman, Bishop of Washington. Commencement exercises will be held May 26, in Continental Memorial Hall.



The Marquette Law School is now occupying its new building. The architectural style of the new building is Collegiate Gothic of the Tudor period, three and one-half stories high, being L-shaped, fronting 100 feet upon Grand avenue and extending 61 feet south on Eleventh street. It is fireproof throughout, built of reinforced concrete framework with brick and tile walls. The exterior is faced with brick and trimmed with Bedford stone.

On the first and second floors are recitation rooms, offices, and a moot court room, appropriately furnished and having ample room for spectators. The third floor and the mezzanine floor of the west wing are used for the library and stack room, with a capacity of 50,000 volumes. The third floor of the east wing is devoted to a reading room, known as the Grimmelman Memorial Hall. It is approximately 60 feet long and 30 feet wide. The roof is high-pitched, and there are large ornamental windows at either end. Directly opposite the entrance is an immense stone fireplace. The general design of the room is similar to the Old Hall of the Middle Temple, Inns of Court, and other collegiate buildings in England.

The dedicatory exercises were held at the beginning of the school year. Hon. Burr W. Jones, Justice of the Supreme Court of Wis-

consin, gave the principal dedicatory address, and William D. Thompson, Esq., President of the Wisconsin State Bar Association, also gave an address. At the same time congratulatory addresses were given by various judges, the mayor of the city, and members of the bar.

The personnel of the faculty remains unchanged, with the exception that Professor George A. Bouchard, a graduate of Lawrence College and the University of Michigan Law School, was added.

Professor Carl Zollmann has just published a book on the American Law of Charities, which is receiving most favorable criticism by some of the leading law school journals and other legal publications.

The Marquette Law Review, now entering on its ninth year of publication, has added "Notes and Comments on Cases," as well as a section on Book Reviews, to its contents. The circulation of the Law Review has steadily increased and the publication is very flourishing.

Professors Fox, Lang, and Bouchard will conduct a Summer Session at the Law School, and will offer courses in Sales, International Law, and Conflict of Laws.

Very interesting practical lectures have been given to the law students by Judge E. Ray Stevens, William H. Timlin, of the Milwaukee Bar, and William Klatte, of the Civil Court of Milwaukee County. These lectures have been given in conjunction with the Moot Court work. Attorney General Herman L. Ekern is scheduled to give a lecture the coming month.



District Judge Hastings, former Dean of University of Nebraska Law School, is teaching Equity in the University of Omaha night law school. District Judges Troup and Sutton now have charge of the Moot Court. A review of the Interstate Commerce Act by one of the students is in preparation and will soon be ready for distribution. This will be sent free of charge to every lawyer in Nebraska and western Iowa.



Incorporation of the Tulsa Law School with the University of Tulsa as a definite collegiate department effective September 15, 1925, was voted Thursday evening at a meeting of the Executive Committee of the University and directors of the Law School. The amalgamation of the Law School, which will hereafter be known as the College of Law of the University of Tulsa, with the University, is regarded by the University faculty and directors as one of the most important steps in the expansion of the institution.

All officers and directors of the Tulsa Law School will retain their official connection with the school when it becomes a depart-

ment of the university next fall. Wash Hudson will continue as Dean of the Law School, which was organized three years ago by E. E. Hanson, who is now Secretary and Treasurer, Mr. Hudson, Judge Robert D. Hudson of the common pleas court, Ira J. Underwood, former city attorney, and M. C. Rodolf.

All students enrolled in the Law School will be recognized as regularly enrolled students of the University of Tulsa after September 15, 1925. With the new arrangement, the law classes will be held at the University. The faculty of the Law School, in addition to the above named directors consists of Louis Pratt, Horace Hagan, Tom Wallace, William McClarin, W. E. Montgomery, H. R. Williams, Harry Halley, Hal Rambo, and W. I. Williams.

After next September, all candidates for the degree of Bachelor of Laws much have completed one year of college work before such a degree will be conferred. The course offered is a standard three-year course, using a combination case and text-book system that is much favored by the larger law schools of the country.

In the future all graduates will receive their degree from the University, although the Tulsa Law School obtained the power to grant law degrees by virtue of a special bill just passed by the present Legislature and signed by the Governor Thursday.

More than forty students are now enrolled in the Law School and the number is expected to double under the new arrangement.



The Summer School of the University of Georgia Law Department will offer a course covering the subjects of first-year work of the regular term. The Law School has suffered irreparable loss by the recent death of Hon. Andrew J. Cobb, Professor of International Law, Roman Law, and Constitutional Law. Professor Cobb was one of the most distinguished sons of the state of Georgia and had been a Justice of the Supreme Court of the state.



Beginning this spring, at the Portia Law School, a free bar review course will be given to members of the senior class, and all members of the alumnae who have not yet taken the Bar Examination. The school was fortunate in securing the services of Professor Frank L. Simpson, of Boston University Law School, to give this review course. Classes will be held three evenings a week, from 7:30 to 9, from April 22 until June 25. This is now a required course at the school, and all candidates for a degree must show credit for attendance at this review, or some other approved review course, in order to obtain a degree.

A new member has been added to the fac-

ulty the second semester. Miss Bessie N. Page, B. B. A., LL. B., is teaching the course in Landlord and Tenant, which was formerly scheduled to be given by Miss Helen West Bradlee. Miss Page has held special classes in Business Law for some time, and has also taught Commercial Law at Boston University School of Secretarial Science.

During June and July of this year, the school will offer two elective courses, one in Domestic Relations, given by Professor Frederick O. Downes, formerly a member of the faculty of Boston University Law School, and the other in Municipal Corporations, by Professor A. Chesley York, Assistant Attorney General of Massachusetts. These are offered primarily for the benefit of students who have completed three years of their law course, and will allow them to attend school only one evening a week for the last eleven weeks of their senior year, thus affording more time for their review course in preparation for the State Bar Examination.

The Summer Preparatory Department, established in June, 1921, will be opened again this June. This course is devoted exclusively to instruction in high school subjects, and has been founded for the benefit of all Portia law students having less than a high school education or its equivalent, to enable them to qualify for the law degree. It offers a ten-week course, three evenings a week. The Preparatory Department is under the personal direction of Mr. Percy F. Williams, of the Fessenden School, the well-known preparatory institution of West Newton.



There will be no change in the faculty of the Akron Law School for the coming law school year. The charter members of the Law School organized, a few weeks ago, the C. R. Grant Club, named in honor of the Dean of the school. The Club offers an opportunity to students to join a good law fraternity.



Professor Sinclair Daniel, B. S., M. S. Southwestern Presbyterian University, LL. B. University of Louisville, and LL. B. Jefferson School of Law, has recently been appointed Secretary and full-time Professor of the Law Department, of the University of Louisville. Since Professor Daniel's appointment to the faculty, indications are the school will be placed on standing even higher than it has heretofore enjoyed. Through his efforts considerable spirit has been created between the senior and junior classes in a contest of a series of Moot Court cases, whereby the class receiving the majority of verdicts throughout the series will be awarded a banquet at the expense of the class so defeated.

This year marks the organization of a new literary and social club, to which all members

of the student body are welcome to membership. The University Law Club will be one of the future powers in the school's development. Leading members of the Louisville Bar are scheduled to address the organization on subjects of interest to students.

The requirement of college preparation for admittance to the School of Law has resulted in an increased number of students. The present pre-law class at the University is a happy indication of a higher standard and bigger school. In the past two examinations, held at Frankfort, Kentucky, by the Kentucky State Bar Examiners, members of the school were successful, in competition with graduates of various universities throughout the country, in receiving the highest grades at the examinations.

The local chapter of the Phi Delta Sigma, honorary law fraternity, recently celebrated their third anniversary, and are planning to secure a local Frat House. The fraternity has been instrumental in many steps that have aided the school in its steady advancement for leadership of law schools of the South.



Mr. Maurice E. Harrison, of the Hastings College of Law, San Francisco, Cal., has resigned his position as Dean of the College in order to enter private practice. Announcement has recently been made that Mr. William M. Simmons of the law faculty has been appointed Dean of the college of Law to succeed Mr. Harrison.



The Suffolk Law School, Boston, Mass., has been fortunate this year in securing for their commencement orator, United States Senator William H. King of Utah. Commencement Day is Wednesday, June 3d.

The results of the questionnaire conducted at the school on March 17th are of interest in showing the ages of the students. In the senior class, with its 260 students, 48 per cent. are married men. They have an aggregate of 135 children. The oldest man in the class is 61 years of age; the average age of the class being 30 years. These figures vary slightly in the junior and sophomore classes. In the freshman class, consisting of 954 men, the statistics are as follows: 26 per cent. of the class are married men. They have an aggregate of 250 children. The oldest man in the class is 59 years of age. The average age is 26 years.



The regular summer term of the National University Law School opens as usual June 15th, and runs for eleven weeks. Full courses are offered during the summer term. The attendance during the summer term has steadily increased each year, and it is expected that there will be about three hundred students. The registration during the

winter has been something under eight hundred.

A great deal of interest is being shown in the courses leading to the J. D. and D. C. L. degrees. These are open only to students who have completed four years of college work and secured an A. B. or B. S. prior to taking up the study of law. These students are also required to make eighty-five per cent. in all subjects taken and to submit a thesis based on research work done during the year.



The faculty of the recently organized Lincoln College of Law, at Bakersfield, Cal., consists of the following: Mr. E. A. Klein, Dean of the College of Law, who gives Elementary Law and Contracts; Hon. E. J. Emmons, who is teaching Criminal Law, Mining Law, and Irrigation; Mr. Paul Garber, instructor in Negotiable Instruments; Mr. R. W. Henderson, who gives Sales, Partnership, and Agency; and Mr. J. O. Reavis, who will teach Bailments and Common Carriers. The school opened last fall, and the course will cover four years. Special emphasis is being laid on a course on Elementary Law, which is given twice a week for three months. The sessions are 2½ hours each. This course has been developed with the idea of disciplining the mind, no notes being allowed in the class room.



The faculty of the Y. M. C. A. Law School, Minneapolis, Minn., is as follows: L. P. McNally, Torts; Robert Driscoll, Evidence; Paul J. Thompson, President, Board of Trustees; David Shearer, Agency; Fred Putnam, Insurance and Property I Real; W. D. Shaw, Property II; Le Roy Bowen, Equity; W. G. Compton, Damages; D. E. Bridgman, Mortgages; L. R. Barker, Bills and Notes and Suretyship; A. L. Fletcher, Contracts; and J. H. Colman, Constitutional Law. The school was founded five years ago, and the members of the faculty are practicing attorneys in Minneapolis.



Arrangements have been made for a Summer School, both in the regular and academic departments of the Northwestern College of Law, in Minneapolis. This course will be carried on during the months of June, July, and August. This spring the Law School will conduct a very thorough final examination in the various subjects covered by the curriculum, and a thorough and practical review is being carried on in the senior class. It is expected that a good-sized graduating class will graduate in June.

Last February a very interesting assembly of all the students in the school was held. An address was made by Judge Nordbye, recently appointed Judge of the District Court of Hennepin County.

The College of Law of the University of Dayton, Dayton, Ohio, tendered a banquet at the University and had as their guest of honor the Chief Justice of the Ohio State Supreme Court, Hon. Carrington T. Marshall. The topic chosen by the Chief Justice was "Legal Education." Among other guests were Rev. B. P. O'Rielly, of the University, and John C. Shea, Dean of the Law College.



The Law School of Gonzaga University, Spokane, Wash., received a severe blow in the death of Mr. James Taylor Burcham, who had taught in the Law School since its organization. Mr. Burcham will be succeeded by Mr. James Emmet Royce, who has been lately added to the faculty.



In addition to the regular three-year course in law at the People's National University, Atlanta, Ga., there will be offered next fall a special one-year course in law, covering forty weeks. Classes will be held during the evening hours from 6 to 8 p. m., inclusive.

Mr. George A. Hawkins has been added to the faculty and will give the course on Domestic Relations. Another new member of the law faculty is Mr. A. S. Howell, who will give the course on Torts.



The Columbus Y. M. C. A. Law School, Columbus, Ohio, announces that beginning next fall the sessions will be increased from two hours per evening to three hours per evening. The course covers three evenings per week for a period of four years. Heretofore the school has been granting only the LL. B. degree. Beginning next year, it is planned to give also the degree of Juris Doctor (J. D.), Master of Laws (LL. M.), and Master of Patent Law (M. P. L.). Three new instructors were added to the faculty during the spring semester, and seven new instructors will be added in the fall. The library facilities are being greatly increased.



The Summer Session of the Law School of Vanderbilt University will open on June 22d and close on August 29th. The teaching staff will be selected from the regular faculty. Professor R. A. Rasco, of the University of Arizona, will also teach in the Summer School. Mr. Rasco was included in the summer faculty last year.



The students of Georgetown Law School have organized a debating club, named for Hon. Pierce Butler, Associate Justice of the Supreme Court of the United States. The club holds meetings regularly, and legal ques-

tions, as well as matters of public or popular interest, are discussed.

The club has recently held two debates, open to the public, in one of which the question discussed was, "Resolved, that the Philippines be retained." The judges on this occasion were Professor Charles W. Tooke, Professor F. J. De Sloovere, and Professor Robert A. Maurer, of the Law Faculty. The prize was awarded to Mr. P. J. Sheridan, who took his college work at Pennsylvania State College; honorable mention went to Mr. Alois Johannes, who prepared for law school work at the University of Notre Dame. The prize was a copy of "The Spirit of the Common Law" by Roscoe Pound.

At the second debate, Mr. Edward E. Reilly, of New Jersey, was selected as the best speaker. Mr. Reilly is a Princeton man. The subject of the second debate was, "Resolved, that capital punishment be abolished." Judges for the second debate were Professor William Jennings Price, F. Regis Noel, Ph. D., and William J. Crane, Esq., of the District of Columbia Bar. The prize for the second debate was "The Constitution of the United States," by James M. Beck.



Associate Professor H. A. Holt has resigned from the faculty of Washington and Lee University School of Law, to take effect at the end of the current session, when he proposes to enter practice. Mr. Raymon T. Johnson, A. B. (University of Kentucky, 1922), J. D. (Chicago, 1925), has been elected Assistant Professor to fill the position vacated by Mr. Holt. Professor Johnson will take up his duties at the beginning of the school year, September, 1925.



On January 1st, 1925, St. John's College, Brooklyn, which was originally chartered in 1871 received permission from the University of the State of New York to establish a law department in connection with said St. John's College to be known as the St. John's College School of Law.

Preliminary organization has already been completed. Quarters have been secured in the Terminal building located opposite the Borough Hall in Brooklyn, and also opposite the Municipal building. The faculty for the first year has already been determined upon and will include the following: Dean George W. Matheson, A. B., LL. B.; Professor Cornelius J. Smyth, A. B., LL. B.; Professor David S. Edgar, LL. B.; Professor John P. Maloney, B. S., LL. B.; Professor Frederick S. Whitney, A. B., LL. B.; Professor Dennis O'Brien, A. B., LL. B.; Associate Professor Lester B. Donahue, A. B., A. M., Ph. D., LL. B.; Associate Professor Charles G. Coster, A. B., LL. B.; Associate Professor Leo C. Kelly, A. B., LL. B.; Assistant Pro-

fessor Edward J. O'Toole, A. B., LL. B.; Assistant Professor Nathan Probst, Jr., A. B., LL. B.; Assistant Professor Louis Prashker, A. B., J. D.; Instructor Mr. Maurice Finkelstein, A. B., LL. B., S. J. D.; Instructor Mr. William Tapley, A. B., LL. B.; Instructor Mr. James B. M. McNally, A. B., LL. B.; Instructor Mr. Rowland Long, LL. B., LL. M.; Instructor Peter J. Baxter, A. B., LL. B.; Assistant Mr. Joseph M. Paley, LL. B.



Judge William A. Falconer of Ft. Smith has been appointed to a professorship in law in the University of Arkansas Law Department, Fayetteville, Ark., beginning with the session of 1925-26. Judge Falconer is one of the best known lawyers of Arkansas, having practiced for many years in Ft. Smith, and having been Judge of the Chancery Court of the Ft. Smith District for six years from 1913 to 1919. Judge Falconer was a student in the University of Arkansas for one year, but he received the greater part of his aca-

demie and legal education of Virginia. In the midst of a practitioner and member he has always retained an scholarship, particularly a few years ago he published Loeb Classical Library a of Cicero's works, "The Old ship." This piece of work a reputation among class lovers of classical literature. Last year he was elected bership in the University of Phi Beta Kappa. Judge the honorary degree D. C. him by the University of Tennessee. Judge Falconer work in the University of a thorough theoretical knowledge but also that practical comes only from experience on the bench. His contribution is regarded as a valuable addition to the law faculty.

The American Law School Review

An Intercollegiate Law Journal

S. E. Turner, Editor

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New Edition of

MIKELL'S CASES on CRIMINAL LAW

By William E. Mikell

Dean of the Law School, University of Pennsylvania

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Law Aptitude Examinations

By MERTON L. FERNON

Dean of the Law School, University of North Carolina

“THE natural sequence to intelligence tests at college entrance is the placement examination. This examination will differ from an intelligence test primarily in the following respects: (1) It will be devoted to a single subject or field of knowledge, such as English, mathematics or chemistry; (2) it will differentiate between training in a subject and natural aptitude or fitness for that field of work; (3) it will be a departmental affair and will be given separately by each department in its immediate interests and needs; (4) it will serve as an introduction to the subject, being prepared partly with the purpose of reminding the student of the essential prerequisites for the course and indicating the general character of the activity that will be pursued in the course, and being so written from the point of view of the art of teaching that it shall constitute the most profitable exercise for the first two hours of the course; (5) this examination should give, at the end of two hours, as adequate information about the student's place and needs in the course as the instructor ordinarily acquires by the end of the first semester under the traditional methods of instruction; (6) the record of a general intelligence test may be used to

supplement this examination, but that is not essential, as a series of placement tests will be more significant than a general intelligence test; * * * (8) it will be given for a specific purpose.”¹

As implied in Professor Seashore's second postulate above, a man's ability to pursue a law course depends on (a) his training and (b) his mental aptitude. The preliminary training of law students has had the attention which its importance deserves. The dogged agitation, by the bar, bench, and teaching profession, for more adequate training, is finally being rewarded. The better class of law schools now require two years or more of college training. The colleges whose work is acceptable for admission are pretty well standardized. The result is that students come to us with considerable training of a rather uniform character.

It must have impressed experienced law teachers that this preliminary training, indispensable though it is, does not give assurance that the student will succeed in law study. The student mortality continues high in law schools, and it is not the indolent alone who fail.

¹ Seashore, C. E., *College Placement Examinations*, School and Society, vol. XX, No. 515, November 8, 1924.

There is a factor of mental aptitude to be reckoned with in every law student. Some traits more specific than general intelligence are needed, the lack of which cannot always be supplied by training, or atoned for by industry. We have been ignoring this factor, not because it is unimportant, but because it is a subtle thing and difficult to reckon with.

The learned professions vary, one from another, as to the sort of mental operations they involve. Students vary, one from another, in aptitude; yet they often gravitate, hit or miss, into professions. A good many of the so-called failures which result are only misfits.

The student himself does not know in advance whether law study will be to his liking or not; or whether he is adapted to its pursuit. He has never been over the road and cannot have a clear idea of what sort of mental activity it involves. Many students realize this and seek guidance. Those of us who spend our lives taking students over the road know what sort of activity it calls for. Possibly, with the aid of the psychologists, we can detect what capacities are needed most; and having done that, we may be able to devise tests that will reveal these capacities in the particular student.

There is encouragement in the fact that placement tests (including both training and aptitude) are being found useful in other lines of scholastic endeavor. The forecasts from such examinations in chemistry, English, French and mathematics have been found to have a high degree of reliability. "Good performance in the placement examinations strongly indicates good semester work; poor performance (to a less degree), poor semester work. Exceptions to prediction among the very good or the very poor are rare."² The capacities requisite for law study would seem no more difficult to detect or test for than the capacities called for in the study of chemistry, English, French or mathematics. There is encouragement, also, in the proffered aid from our friends in psychology depart-

ments. They have acquired a discernment of intellectual processes and a technique in making examinations that enable them to reckon with mental traits more accurately than ever before. Law teachers should not be the last to avail themselves of these achievements.

The importance of determining the aptitude of prospective law students is great enough, and the science of examining is advanced enough, to justify at least an experiment. This is the thought with which a tentative edition of a Law Aptitude Examination has been submitted to law school Deans. The examination is designed to test such capacities as: Comprehension, of language and thought; ingenuity in analysis; discrimination between the relevant and the irrelevant; memory and accuracy; reasoning by analogy; and the solution of problems in symbolic logic. The West Publishing Company has co-operated in the matter by printing the examinations and furnishing the questions free of charge to such schools as desire to use them. Several schools are joining in the experiment, but there has not yet been time to grade the papers.

The writer has administered the examination to a first year class and now has an impression that one of the parts—viz. the comprehension test, based on a paragraph from Langdell's Summary of the Law of Contracts—is too difficult. Some minor defects in the examination also appeared. Appraisal of the experiment must await a checking of its results with student records to be made later on. It was to be observed that students took the examination with considerable zest, as a measure of strength on an intellectual striking machine. It is hoped for their sake that it proves to be a somewhat reliable measure.

Any discussion of the specific methods of using the results of aptitude examinations would be premature at this time. The degree of their utility (if indeed they have any), and the methods of their application, are questions that must await experimentation and depend upon the accuracy with which these examinations disclose a student's fitness. In case a test is found that will indicate the prob-

² Bureau of Educational Research and Service, University of Iowa, Test Service Bulletin, No. 1, July, 1925.

able degree of aptitude of a student for law study, it will no doubt be of practical utility. Among the purposes it would serve are: (a) Selecting special students for admission; (b) getting, at the outset, an impression of the ability of students in an entering class; (c) guiding students who voluntarily seek guidance; (d) di-

agnosing the cause of poor scholarship, as between indolence and inaptitude; and (e) constituting a factor to consider along with a student's training record in determining his eligibility to enter as a regular student. Such an examination seems, moreover, a wholesome exercise as an introduction to the year's work.

The Abuse of Law¹

By YOUNG B. SMITH

Professor of Law, Columbia University

PERHAPS the most significant change in legal thought during this generation has been the more general realization that law is made by man to serve human interests, and can and should be changed as those interests change. The old theory of natural rights, the notion that there exist immutable principles of justice which may be discovered but cannot be made, have given way to the more modern conception that law is a device for social control, and should be molded to suit present day needs. This change is not only reflected in the decisions of courts, the writings of jurists and social scientists, but also in the platforms of political parties, and in the propaganda of all varieties of social reformers.

While this change in attitude towards the nature and function of law has made possible many desirable reforms, it has also given an impetus to law making which has created new dangers. A prodigious number of laws, touching nearly every aspect of life, have been passed. The flood of legislation has become so great that it is impracticable for even the lawyer to keep abreast of the statutes which are annually enacted. In many instances these laws have been hastily drawn, in disregard of the principles of draftsmanship, thereby causing uncertainty as to their meaning and effect.

Due regard has not always been given to the feasibility of enforcing or administering a particular statute, resulting in an increasing nonobservance or positive disregard of law. Frequently the futile attempt has been made to control by local law a national situation. On the other hand federal laws have been enacted which dealt with matters of local concern. Moreover, the propriety of regulating by law certain phases of human action has, at times, been little considered, and the law has been made the ally of intolerance and bigotry.

When we speak of social control, we ordinarily mean a restraint upon the liberty of one individual for the protection of some interest of another, which interest is believed to outweigh in social value the detriment which may result from the curtailment of the other's freedom of action. The values which we place upon conflicting interests necessarily vary with the extent and intensity of particular human desires, the conditions under which we live, and the prevailing beliefs as to what does and what does not inure to our well-being.

Our desires we know; our environment may be discovered; but what will promote our well-being must, at best, remain a prophecy based upon past experience. When we consider that existing precepts of morality and present social conventions are to a very large extent the crystallized judgments of many generations as to

¹Address delivered at the opening exercises of the University, September 23, 1925.

what inures to man's well-being, we should proceed with the greatest caution in casting them aside.

The justification of a new law on the ground of social utility presumes the accomplishment of its purpose. Assuming that the evaluation of the conflicting interests is correct, if the law is ineffective to accomplish the desired result, the invasion of individual liberty which it costs is obviously a bad investment. Moreover, there may be devices for social control, other than law, which are better adapted to the accomplishment of a particular result, and which are less costly in their operation. Therefore, the matter of social legislation presents a three-sided problem. First, does the protection of a particular interest justify the interference with other interests necessary to the accomplishment of the desired result? Second, will the proposed law prove effective to accomplish its purpose? Third, is there a better way of accomplishing the result?

The chief danger from the new conception of law is that it makes easier the adoption of unsound as well as sound theories of social reform. It has already become the chief weapon of the fanatic as well as of the more intelligent student of social problems. There are many agitators in our midst who have been seized with a desire to compel all human beings to conform to a type, whether it be fundamentalist, teetotaler, or one hundred per cent. American. This will to standardize man has been justified on the grounds of efficiency, humanity, patriotism, and religion. It has encouraged a spirit of intolerance among large portions of the population, and a strong desire to persecute the nonconformist has been manifested.

During the past summer the country was aroused by the trial and conviction of a school teacher for teaching a biological theory which is generally accepted by men of science throughout the world. Many people who had paid little heed to the tendencies in American life which culminated in the anti-evolution law, were suddenly shocked into a realization that our most cherished liberties are at stake. But the anti-evolution law of Tennessee is

but a manifestation of the same state of mind which brought forth the Lusk law of New York, and similar statutes which were enacted in different parts of the country.

It is true that law is a device for social control, but it is a mistake to assume that all forms of human behavior should or may be controlled by law. There are many matters as to which most people are unwilling to submit to governmental control. The restrictions upon the power of government found in the Constitution of the United States and the constitutions of the several states afford ample evidence of this fact. The privilege of expressing one's views, or choosing one's vocation, or one's place of abode; the privilege of selecting one's spouse, or one's religion, are examples of matters concerning which people resent dictation by the state. Indeed, if inventiveness in man is to be encouraged, if originality and new ideas are to be fostered, it is essential that there be a large sphere of activity within which the individual is left free and unhampered to follow his own bent. The occasional harm which may result from thus indulging the individual is the price which society must pay for genius, for character, and for progress. It was with the view of preserving for the individual this domain of free choice, even as against the will of majorities, that many of the constitutional provisions were adopted. While it lies within the power of the states, by constitutional amendment, to further limit this important field of human activity, such action should be taken with the greatest caution and only after it is clear beyond doubt that a settled public judgment demands it. This great domain of free choice is a priceless heritage from the centuries of struggle and suffering which have gone before. It should not be lightly sacrificed for novel and untried theories of social reform.

There is also a vast domain of human action concerning the regulation of which the federal and state constitutions are silent. It follows, of course, that within this domain the state Legislature is supreme. It can legally pass unwise as well as wise laws. But it does not follow from the fact that the freedom of the individual

in a particular field of conduct is not protected by constitutional provision, that his action should be governed by positive law. There are many restraints upon human conduct other than the restraints of positive law. Morals and manners would not exist if this were not so. Indeed, human behavior is controlled to a far greater extent by these nonlegal restraints than by the restraints of positive law. If the students of social psychology are to be believed, people are influenced more by the conventions of society than by the prohibitions of the penal code. If the penal code of New York were repealed to-morrow, I doubt whether many, if any, of you would commit murder or robbery or any of those offenses against which there exist generally accepted inhibitions of morality. On the other hand, the prohibitions of the Volstead Act have had little effect upon the habits and practices of, perhaps, millions of American people.

The penal code is necessary in order to deal effectively with the anti-social creatures who live in our midst, but they constitute a very small part of the total population. While law is the most effective device for controlling such individuals, it is an error to assume that the habits and practices of people generally may be altered at the lawgiver's command. The idea that human behavior can be suddenly changed by mere legislative fiat, has resulted from a failure to appreciate the relation of moral precepts, and social conventions, to the field of positive law.

There are many laws which neither involve questions of morality nor seriously interfere with human desires. The traffic laws afford an example. Many of the rules of commercial law are of the same nature. It is not so important what the rule is, so long as there is a rule. Such laws are generally accepted by people without objection. Then there are laws which affect only a very small proportion of the population. The heavy surtax on large incomes is a law of this type. Such laws seldom arouse strong opposition on the part of the great masses of people and enforcement is usually not difficult although the law is regarded as unjust by those who are affected. Moreover, there are many laws which deal only with the

organization of government. Such laws rarely involve moral questions or disturb prevalent customs and habits of people. But our experience has been that a prohibitory law, which actually touches the liberty of people generally, has little chance of enforcement unless it is supported by the generally accepted precepts of morality or the actual conventions of society.

The social reformer has too often overlooked the importance of this fact. Having decided that particular habits or practices of people should be stopped, he has seized upon the device of law as a means of accomplishing his purpose without first having created a predominant public opinion in favor of the reform. Not only is such procedure likely to fail in the accomplishment of its purpose, but it is very apt to produce social consequences which are worse than the evil sought to be destroyed. That there must be laws needs no argument. But the law should further human desires rather than thwart them. The law should accord with the precepts of morality rather than contradict them. If we would change man's ways, we must first change his habits of thought; we must first revise his code of morals; the law will follow.

Much has been written, and more has been said, about the lawlessness and corruption which have followed the adoption of the Eighteenth Amendment to the Federal Constitution. Those opposed to this law have pointed to this state of affairs as conclusive proof that the law is intolerable, immoral and should be repealed. On the other hand, those responsible for this law have attempted to shift the blame for the existing conditions by accusing their opponents of aiding and abetting in its violation. Whatever may be our opinion on this question, it is a fact that thus far the prohibition law has proved incapable of enforcement in many sections of the country. The violation of this law has steadily increased since its adoption, and there is no indication that the present deplorable state of affairs will cease at any time within the near future. It is a significant fact, however, that obedience to the Volstead Act in different sections of the country has varied in proportion to the

extent to which people in the various localities had already come to regard the use of intoxicants as a social evil, and, therefore, morally wrong.

The popular belief that a representative democracy is government by the majority has led many good citizens into the error of thinking that a legislative enactment, or a constitutional amendment, is ipso facto an expression of the public will. When it is recalled that considerably more than half of the population entitled to suffrage do not vote, that perhaps a majority of those who vote are not in fact expressing an opinion on particular social legislation, that legislation involving important changes in the law is often passed by a bare majority of the legislative body, the illusion that the voice of the Legislature is the voice of the people vanishes into thin air. Under our political organization legislative bodies not infrequently reflect the desires of an active and well represented minority, with the result that important interests which are not strongly represented are frequently ignored. It is possible for well organized groups within the state to have enacted into law, and thus foist upon an unwilling people all kinds of burdens and restraints. Too little consideration has been given by law-making bodies to the question whether the clamor of the propagandist, the reformer and the lobbyist, is inspired by the selfish interests or mistaken beliefs of small groups, or by the interests of the public at large.

One of the most important aspects of social legislation is the question whether the control of particular matters may be best handled by the national or by the state governments. At a time when a very large part of the population was engaged in agricultural pursuits, when industry and business consisted chiefly of small traders and manufacturers who served the local needs of a particular community, the social policies of one state were of slight importance to people in another and the laws of one state had little effect upon people in another. Under these conditions state regulation of business was a workable plan. But as commerce and industry spread across state lines, and people in one part of the coun-

try became more and more dependent upon people in other parts of the country, the multifarious laws of the different states became a serious obstacle in the path of the commercial and industrial development of the nation. A widespread demand that the federal government should act for the purpose of unifying the law resulted in an extensive exercise of congressional power based upon the commerce clause of the federal Constitution. But the movement to nationalize the law has not stopped with interstate commerce. There is an increasing effort to procure the enactment of federal laws dealing with all kinds of matters, many of which are properly matters of local concern. While there are many commercial and industrial problems which, because of their interstate character, can be effectively dealt with only by a national law, it does not follow that all reforms should be nation-wide in scope. In a country as large as the United States, with such diverse interests, that which may be a desirable law in one section may be quite undesirable in another. A law which may promote the social and economic well-being in one section may prove to be ruinous to another. A law which may easily be enforced in one section may produce lawlessness and corruption in another.

Another cause of the perplexing difficulties which now confront us is that laws have been passed too freely without consideration of whether there existed the necessary machinery for their effective administration and enforcement. It must not be forgotten that the most desirable law may utterly fail to accomplish its purpose if suitable means are not provided for its proper administration. For some time we have been attempting to use the agencies for the administration of law which were devised by our fathers a century ago to perform much simpler tasks than those required by the complexities of modern life. We have grossly neglected this aspect of lawmaking because we are relatively ignorant of the science of administrative law. Our universities have for years engaged in a study of the principles of substantive law, but have paid little attention to the problems of law administration. Millions of dollars have

been spent through governmental and private agencies in discovering and pointing out social evils, but little has been spent for a scientific study of ways and means of curing them.

Before we go further with the expansion of the domain of positive law, we should give more thought to the limitations of law as a device for social control. We should more carefully distinguish be-

tween matters calling for national regulation and matters of local concern. We should make a more scientific study of the various devices for law administration with the view of adapting them to the tasks at hand. If properly employed, law may be made to better serve human interests, but it is a dangerous instrument in the hands of men who do not know how to use it.

The Danbury Hatters Case

**The Summation for the Plaintiffs in the Case of D. E. Loewe & Co.
v. Martin Lawlor et al., United States Circuit Court,
Hartford, Connecticut, February 3, 1910**

By WALTER GORDON MERRITT

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Biographical Notes

WALTER GORDON MERRITT was born in Danbury, Connecticut, on January 4, 1880. He was graduated from Harvard College in 1902, and from the New York Law School in 1903. In the same year he was admitted to the New York bar. Much of his practice has been in connection with cases involving industrial relations, and he has been associated as counsel with the League for Industrial Rights, formerly the Anti-Boycott Association, since its inception. He is a member of the firm of Lanahan, Merritt & Ingraham, of New York City.

Statement of Facts

In the year 1900, the firm of D. E. Loewe & Co., of Danbury, Connecticut, manufacturers of hats, was conducting an "open" shop which made a profit of \$24,000. In the year 1901, when the profit was \$27,000, James Maher, an officer of the United Hatters of North America, began negotiations with Mr. Loewe to unionize his shop. On March 6, 1901, Loewe was informed that he

would be compelled to unionize. On July 24, 1902, the agents of the Hatters Union again came to Danbury, and on the next day the 250 employees of Loewe went out on strike. The result was that the business suffered a loss in 1902 of \$17,591, and in 1903 of \$15,738, instead of making a profit.

In May, 1903, the Anti-Boycott Association was organized in New York by Mr. Daniel Davenport. Being nearly driven into bankruptcy, Loewe applied to the Anti-Boycott Association for help in protecting his legal rights. Suit for damages was begun in the United States Circuit Court at Hartford on August 31, 1903. The suit was instituted not against the Hatters Union as an organization, but against Martin Lawlor and 250 others, as individual members of the Union. Attachments were placed on the homes and the savings bank accounts of these members amounting to about \$52,000. On demurrer to the complaint, a writ of error was taken to the Circuit Court of Appeals, Second Circuit, which in turn certified to the United States Supreme Court

the question whether such a case, if proven, would come under the clause of the Sherman Anti-Trust Act which provides for three-fold damages. The unanimous decision of the court, delivered by Chief Justice Fuller, February 3, 1908, held that boycott cases came under the statute as conspiracies in restraint of trade (*Loewe v. Lawlor*, 208 U. S. 274, 28 S. Ct. 301, 52 L. Ed. 488). In this proceeding, Samuel Gompers, representing the American Federation of Labor, petitioned the court for permission to intervene on behalf of the Federation, and after the decision, Mr. Gompers sought to have Congress pass legislation which would exempt unions prosecuting boycotts from the provisions of the Sherman Act.

The suit was then tried in the United States Circuit Court before a judge and jury, beginning on October 13, 1909. It lasted nearly four months, and over 200 witnesses were called. The closing addresses by Mr. Merritt and Mr. Davenport printed herewith were made in this suit on February 3, 1910. Judge James P. Platt directed the jury to bring in a verdict for the plaintiff. They did so, assessing the damages at \$74,000, which amount, under the terms of the statute, was trebled to \$222,000, plus costs and allowance for attorneys' fees. This was on February 4, 1910. On March 7, 1910, Judge Platt denied the defendants' motion to set aside the verdict.

Appeal was then taken to the Circuit Court of Appeals, Second Circuit, on writ of error. On April 10, 1911, the judgment was reversed by Judge Lacombe, Judges Cox and Noyes concurring (187 F. 522, 109 C. C. A. 288). On January 15, 1912, the United States Supreme Court denied an application for a writ of certiorari (223 U. S. 729, 32 S. Ct. 527, 56 L. Ed. 633). Retrial was then begun on August 26, 1912, and on October 11, a verdict of \$80,000, which when trebled amounted to \$240,000 with costs, was brought in. From this verdict, an appeal was taken to the Circuit Court of Appeals, Second Circuit, which resulted on December 18, 1913, in the judgment being affirmed (209 F. 721, 126 C. C. A. 445). The U. S. Supreme Court affirmed this decision of the Circuit Court of Appeals,

on January 15, 1915 (235 U. S. 522, 35 S. Ct. 170, 59 L. Ed. 341).

Mr. Merritt's Closing Address

Your Honor and gentlemen of the jury, it would be my inclination to offer same preliminary remarks in regard to this case, and the importance of it would seem to justify such remarks, but I am under the embarrassment of having to congest into two short hours the evidence that has been taken during twelve weeks. I am therefore going to apply myself right at the opening to the facts that have been presented before you, and I want to say to the jury and to the Court that in every reference to the record and to any facts which I have gathered from the record I shall be conscientious to the best of my ability to not mislead you in the slightest degree, but state the facts as I have found them, both in the presentation of this case and in the preparation of this argument; so that I hope you will have confidence although I do not turn to the volumes of testimony and read a given quotation to you, that I am setting forth to you with accuracy and without distortion the facts which appear therein.

Before going into any general line of argument, I am going to read to you two pieces of evidence which have not been recalled to your minds since the middle of December, 1909, and these two pieces of evidence which are in a way the foundation stones of this case are uncontradicted, undisputed and uncontested in every particular. I refer you first to the interview which took place in the bedroom of the Groveland Hotel in the town of Danbury, where Mr. Loewe was invited to meet the national officers of the United Hatters of North America concerning the proposition to unionize his factory. After a considerable discussion concerning the feasibility and advisability of unionizing this plant Mr. Moffitt, apparently not encouraged by what Mr. Loewe replied to him concerning this matter, and apparently with his patience exhausted because he had not been able to meet with immediate success in his arguments, turned to our client and said:

"We have talked this matter over, we have endeavored to show you that it would

be to your advantage to unionize your factory, and we might just as well be frank with you; we have made up our minds that this factory is to be unionized and we hope to accomplish this thing in a peaceful way. However, if you don't come in that way, we shall use our usual method to bring you in."

We shall use our usual methods instead of peaceful methods. That is the compelling construction of that language.

Then Mr. Loewe replied: "Mr. Moffitt, do you mean to say if I am not willing to unionize my factory that you will use force?" Mr. Moffitt answered: "Yes, Mr. Loewe; to be frank with you, we shall use force," and then after a while—he hesitated, for even his domineering courage faltered before the threat he had made—he said as if to protect himself against some possible after-clap that might follow, "That is, we shall create such a demand for the union label that you will be forced to adopt it."

Now, there were present at that meeting Mr. James P. Maher and Mr. Martin Lawlor, both of whom have been put on this witness stand and have not denied or modified or construed this in any other way than that in which it has been presented to you by Mr. Loewe.

And there was also present at that meeting Mr. John Moffitt, who has not dared to shadow the door of this courtroom since this case started. And I want to say to you right at this point, gentlemen of the jury, that I had hoped when we undertook the trial of this case that it would be tried frankly and openly so that the full facts would be put before you and the whole truth of the matter might be known to every one, and you could give your verdict upon the full and open facts, but the truth of the matter is that the man who has had more to do with this than any one man, Mr. John A. Moffitt, although he has been within the jurisdiction of this court, has been in this very town of Hartford, and although he is at the head of the organization that is paying the bills of these attorneys, has not dared to enter this courtroom. I tell you there is something far worse in this case than you and I know; something far different than is dreamed of even in your

or my philosophy. They would never allow this case to go to you, gentlemen of the jury—

Mr. Beach: I suppose we need not take exception to any of the remarks of counsel?

The Court: Why, if you think he is going beyond the record—

Mr. Beach: I except, then, to his statements that there is something far worse in this case than you and I know of.

The Court: I don't think Mr. Merritt ought to have said that, gentlemen, but I don't think it will influence your minds. I hope it won't. I think, in his zeal, he went a step farther, than he intended to himself and that is about all I can do to ask you not to pay any attention to any unusual statement that comes from plaintiff or defendants during the progress of this trial. I don't think that Mr. Merritt appreciated exactly the force of that remark.

Mr. Merritt: What I mean is this, gentlemen of the jury. You must know, as all attorneys know, that when they come to the presentation of a case in court, unless there is some strong reason that will prejudice them in so doing, they will produce a witness who has made such vital, conclusive and important statements as Mr. Moffitt—

Mr. Beach. I object to that statement.

Mr. Merritt: Why didn't they produce him concerning them? Mr. Moffitt, having charge of the agents, charge of the correspondence concerning what the agents were doing, why didn't they produce him here? He had charge of Mr. William Brady and all these men employed and salaried by the union to spy on the shipments of Mr. Loewe, so that they could send these agents as their bloodhounds to Loewe's customers and get them to cease doing business with him. Why didn't they produce Mr. Moffitt to explain this? There is some reason and it is fair that you, gentlemen of the jury, should consider what that reason is.

Mr. Beach: I except to that statement.

The Court: I think his last statement is entirely proper, Mr. Beach.

Mr. Merritt: Now, in this statement in that bedroom in which this man joined (pointing to Martin Lawlor) and that

man joined (pointing to James P. Maher) by being present at the meeting and assenting to it, is the whole story of this combination and this conspiracy, which we allege and set up in this case. It is all proven right there without any further evidence whatsoever. We do not contend that each one of these defendants was personally making this attack on Mr. Loewe at every point. We do not contend that they accompanied Daniel P. Kelly or William C. Hennelly to the Pacific Coast, or Felix O'Haire down into Richmond, Virginia, hounding after Mr. Loewe's business, but we do contend that these officers and agents were acting in behalf of each defendant and for his benefit.

In that connection, so that there may be no claim whatsoever concerning our position as to the individual liability or connection of these defendants with this conspiracy, I will read to you the eighteenth paragraph of our complaint: "To carry out said scheme and purpose, the defendants have appointed and employed and do steadily employ certain special agents to act in their behalf with full and express authority from them and the other members of said combination, and under explicit instructions from them to use every means in their power to compel all such manufacturers of hats to so unionize their factories" (that allegation is taken directly from the constitution of the United Hatters of North America)—"and each and all of the defendants in this suit did the several acts hereinafter stated, either by themselves or their agents by them thereto fully authorized." So that when these men, John Moffitt, James P. Maher, Martin Lawlor, Charles Barrett and John Phillips, met Mr. Loewe in the bedroom of the Groveland Hotel where these things were said, the full combination and conspiracy for which every one of these defendants is liable was established and proved.

And, then, to show you further the great interest that these attorneys have had to produce John Moffitt, if they had dared to produce him, I will read you the interview which is also uncontradicted and which he had with Mr. Loewe after the strike was called. I shall not read

the whole interview. After talking over the question of Mr. Loewe's employees, Mr. Moffitt said, "Mr. Loewe, you don't know your people. I had a talk with them this morning. I told them that I could not trust them. They wanted to know certain things. I told them that I was running this matter." That is uncontradicted. Then the interview continued, "You don't know these people. You seem to think a great deal of them, but you are mistaken about them." So that is another thing for you to think of. These men were called down to a meeting for the purpose of creating in their minds a state of dissatisfaction with their employer, and then the president of this union tried to get the employer to distrust the very workmen that he had expressed confidence in. Mr. Loewe replied as any man would have replied, "Mr. Moffitt, it takes a bigger man than you to say anything about these people in my presence. I won't have it. They have been with me too long." Mr. Moffitt replied, "Why, I have got half a dozen affidavits in my pocket showing that they have grievances against you." Mr. Loewe said, "Yes, Mr. Moffitt, if you have any affidavits in your pocket or anywhere that show my men had grievances against me that I failed to adjust, I want to see them, and I won't have another word to say." (Another reason why counsel might have liked to produce Mr. Moffitt.) Mr. Loewe said, "I want to see them." Mr. Moffitt said, "Well, I want to make a dozen full." And that is the last we have ever heard of these affidavits. Further on in the interview, when the discussion led up to the changes that might have to be made in Mr. Loewe's factory if he unionized it, Mr. Moffitt said, "You wouldn't have to change; as I understand it, your conditions in your factory are all right and they are very nearly like union conditions, so there wouldn't be much of a change necessary." Then Mr. Loewe argued with him further concerning it, and he added, "Mr. Loewe, that is all well and good, but we want to unionize your factory. You will consider that, for you must know that we have never lost a case and we are not going to lose this case. You must know, Mr. Loewe, that

we spent \$23,000 to get Roelofs." Mr. Loewe replied, "Yes, you may have spent \$23,000 to get Roelofs and you may spend more than that, but you will not get me, because I have considered this matter, I have been through it a year; I have had it before me ever since you started a year and a half or two years ago and I know my duty—my duty is right there and I shall follow it."

Then at a later interview Mr. Loewe challenged Mr. Moffitt as he had challenged Mr. Maher to produce the payroll of any union factory making the same grade of goods which would compare favorably with his factory, and no such payroll has ever been produced. To use his exact language, he said, "If you can bring to me a payroll of any factory making a similar class of goods—that is, as good as ours—under union conditions, then I won't have another word to say." But it was not produced.

Now, gentlemen of the jury, I simply read these extracts to you as a foundation for my argument, and I propose now to start into it more generally. This is probably the greatest case of this kind the world has ever known. The responsibility which rests upon your shoulders is probably greater than you have ever borne before and greater than you will ever bear hereafter. I would not minimize it in any way. It is right that all of us should appreciate the gravity of the situation. If you, gentlemen of the jury, cannot bring us in a verdict on facts like this, the firm of D. E. Loewe & Company must go out of business. There is the same organization, there are the same national officers, there is the same constitution under which they have been operating for years, and they have strengthened it still further in the convention of 1907, when these things were all ratified and confirmed. After these suits had been brought and these defendants here knew of the trouble that occurred which we complained of, at their convention of 1907 they added this provision to the constitution: "The General Executive Board shall, and they are hereby empowered to, employ agents to be placed on the road for the purpose of agitating for and advertising the union label of the

United Hatters of North America, and to perform such other duties as may be transmitted to them by the Board."

There is the same organization, there are the same officers in the saddle of control, there is the same constitution under which all these things have been done to Berg & Co., Henry H. Roelofs & Co. and Loewe & Co. There has not been an attempt at reform. There has not been any change in any particular, and there are the same 200 defendants paying their moneys into the coffers of this organization to conduct this work which has been conducted in the past, and if you should bring in a verdict against the plaintiffs in this case it would be but the word to them to charge afresh upon our business. They would know that it was useless for any manufacturer to seek redress in a court of law from any damage of this kind. I tell you, gentlemen of the jury, and I tell the counsel for the defense when they argue in favor of the right to destroy this man's business or put us out of business, that we will never strike our colors. You won't get our client in your unlawful clutch, because they won't unionize. We have nailed our colors to the mast. You can sink the ship, but the flag of liberty will still be flying.

And I tell you further that the importance of this case transcends the question of existence of the firm of D. E. Loewe & Company. Mr. Loewe may stand up and fight this battle. He may do it in the spirit of the martyr Nathan Hale, and regret only that he has got one business to give to this cause, but after he has been wiped off the face of the earth with his business, what is to become of the rest? And as Mr. John Moffitt enters the office of the next concern that he wants to unionize and sits down to talk with them and the manufacturer expostulates that he does not want to do it, Mr. Moffitt will have one more argument to present to that manufacturer. He will say, it took \$18,000 to get Berg, it took \$23,000 to get Roelofs; Loewe put up a plucky fight, though he would not unionize, and it cost us \$50,000 to put him out of business. Now, in the face of these facts, what manufacturer would have the reckless courage to stand up? Why, there have been

some 50 or 60 concerns unionized since the day that Berg and Roelofs yielded, but every one on that list of 50 or 60 was unionized before they met a Loewe who would fight. If the next manufacturer to be approached knows that after giving almost ten years of his life to this fight, that after seeking the support and protection of the Federal Courts of this country, Mr. Loewe was finally obliged to abandon his business and liquidate for the benefit of his creditors, what one would be so so daring and reckless as to throw himself under that Juggernaut car for a sacrifice to this same cause? I tell you, gentlemen of the jury, the consequence of this decision, whether it be right or wrong, will go on down through posterity, working good or evil as the case may be.

And there is still another aspect which shows you, gentlemen, the importance and significance of this case. I would have you disabuse your minds of any idea or impression that this is a fight between a man and the working people. This is not such a fight. This is a fight between one manufacturer and 110 other manufacturers (and I am going to call them boycott beneficiaries), combined together with 9,000 working people using one trade mark and engaged in methods of preventing the sale of any hats that are manufactured or worked upon by any poor workingman that does not belong to this organization of 9,000 or by any factory which does not conform to the dictates of this man and that man (pointing to Lawlor and Maher). It is not a suit based on controversy between Mr. Loewe and his employees, who have been harmoniously at work for him for many years. It is a case of a great monopoly of 110 boycott beneficiaries working in common with 9,000 working people and seeking to prevent the sale of any hats made by manufacturers who will not go into combination, and by any workingman who will not pay tribute to the United Hatters of North America. Now, if this combination is to go on, what is to become of the 50 per cent. of the workingmen in the hatting trade that do not belong to this organization? Have they no right to have their products handled by jobbers and retailers who dis-

tribute to the markets of this country because they do not fear that label which now seems to be the only passport by which fur hats can get by the sentries and the pickets of this organization?

And, as to the manufacturers who come up here and testify in favor of this case when beyond the reach of a subpoena, they are in a queer predicament. They are either here attempting to support this practice of crushing a man out of business because he is a competitor of theirs or else they are up here because they do not dare to stay away when asked to come by the defendants' organization. They may take their choice. There is small choice in rotten apples.

And I do not care whether some of these manufacturers came into this unlawful organization voluntarily or not. It is immaterial to our case. They come here, some of them, employers who employ only one man and others who employ two men, and they testified that they turned union to get the use of the union label. But you, gentlemen, have not been spending ten weeks listening to the evidence in this case without becoming fully aware of, and acquainted with, the causes which made these men want the union label. Mr. Hugh Shalvoy testified on the witness stand that the national union of hatters had been engaged constantly in sending out circulars throughout the length and breadth of the land, calling the attention of all organized labor and their friends to the names of concerns that were not union and were not using the union label and its tyrannical jurisdiction; and stating that organized labor would not patronize any dealer who handled the goods of any concern that was not using the union label. Does that not explain why manufacturers came into this organization after '93? - If it does not, let me read the testimony offered by Mr. Beach, counsel for defendants in this case, which explains why the manufacturers in Danbury and Bethel, at least, came into this organization. These are the statements of this hat manufacturers' association which were submitted to the membership of that organization and authorized by them. The statement says, "The label could never have obtained its position of

usefulness in extending sales but for that pressure applied by the managers of the label through means which the courts have just pronounced illegal. It will never again be possible to coerce manufacturers by such means as were employed in 1893." Now, I think, that settles by overwhelming evidence the fact as to whether the great majority of these manufacturers were coerced into this business, and many have taken the witness stand and under the suggestive and leading questions of defendants' counsel as to whether they unionized their factory voluntarily or by coercion, have testified that it was voluntary, and then followed it by testimony that they unionized it because they had to have the label in order to sell their goods. In so doing, they simply stultified themselves and proved our side of the case.

Now, the Supreme Court of the United States, probably the greatest judicial tribunal in the world, has decided by a unanimous decision that if we can prove the facts set forth in this complaint of ours we are entitled to a verdict from you gentlemen for \$80,000 damage. This Supreme Court has had many cases before it under this same statute, but there are few, if any, where the wrong or right of the case was so firmly established that they rendered a decision by a unanimous report, as they did in this case. And it is because of the undoubted wrong of the acts set forth in this complaint. It is because the things set forth in this complaint are a great menace to this country, that the Supreme Court and all its members had no doubt as to what should be their decision.

Now, this is the same statute under which prosecutions are being brought against the coal trust, the sugar trust, the Standard Oil Company, and others. And the reasons why they come under the same statute are because the principles underlying this combination are the same as the principles underlying those combinations. The Standard Oil Company says to the independent refiners in Pennsylvania, "We don't want competition; we don't want you to cut prices. You must come into our combination or you will be put out of business." And so the

United Hatters of North America, speaking for their nine thousand members, dealing with one hundred and ten boycott beneficiaries who employed them, said to Mr. Berg, "We don't want your competition, you have got to come into this unlawful combine or we will put you out of business"; so they said to Mr. Roelofs; so they said to Mr. Loewe. It is the same hue and cry of a mighty monopoly preventing any goods reaching the market that are not put forward by this combine of 110 manufacturers. We are here fighting the guerilla warfare carried on for the benefit of and in behalf of those 110 union manufacturers, and the unions feel that if they can prevent any hats reaching the market that do not bear their little passport they will be able to get higher wages for the working people and higher profits for the employer. As for the man who works at the bench as a brother workman in any factory where they do not use the union label, he will find that the jobbers of the country dare not carry his goods, or if they are sold to the retailers of the country they will not dare handle them. Now, this is the same principle which underlies those monopolistic capital trusts, and it is that identity of principle which led the Supreme Court to decide that this complaint stated a cause of action under the Sherman Anti-Trust Law.

And before leaving this point, the two things which I would have you bear in mind are these: When counsel are arguing to you about the right to do the things set forth in the complaint, simply ask them in your minds whether we have proved that complaint, for there is not an essential allegation in it that has not been proven, and your sworn duty is to bring us a verdict if you believe that is so. And, then, do not forget this one query, when they attempt to begot the issues by eloquence inviting sympathy for the working class. Do not forget to put to them this inquiry in your minds at that point; do not forget this if you do not remember anything else in the case: What is to become of the 50 per cent. of the workmen in the hatting trade that do not belong to your organization? Haven't they a right to earn a livelihood

without paying tribute to you people? All they ask for is fair play.

Now, gentlemen of the jury, I turn you back to the machinery by which this wrong has been wrought against us. In 1896 the American Federation of Labor had already been in existence some ten years and the United Hatters of North America decided to affiliate with them. At that time, and, in fact, from the very foundation of that organization, it had a constitution providing for boycotting—providing for the things which are forbidden in this case. Mr. Gompers, speaking for that American Federation of Labor, together with certain other officers of that Federation, filed in this case at the time it came before the United States Supreme Court for a hearing, a petition of intervention, wherein he set forth with most delicious frankness the wrongful purposes of their Federation, and I will read you from that petition to intervene.

"The petitioners" (speaking for the American Federation of Labor) "are financially and otherwise interested in the decision of the above entitled case, and that a decision herein in favor of the plaintiff in error would seriously obstruct and hinder the said American Federation of Labor, petitioner, in carrying out the purposes for which it was organized."

And, going on: "The constitution of said American Federation of Labor makes special provision for the prosecution of boycotts, so-called, when instituted by a constituent or affiliated organization as is described in the complaint. That under the provisions of said constitution, many so-called boycotts have been, and several are now being, prosecuted by petitioner pursuant to approval of its Executive Council." So in 1908, Mr. Samuel Gompers and his associates, by a formal statement and admission in court, advances as a reason why he should be allowed to come in and intervene in this case, the confession that the constitution of the American Federation of Labor provided for the things which the Supreme Court has subsequently held to be unlawful in this case; that the constitution of the American Federation of Labor was formed for the purpose of boycotting,

and that a decision against said boycotting—a decision forbidding the things which the Supreme Court has since held to be unlawful—would seriously obstruct and hinder the said American Federation of Labor in carrying out the purposes for which it was organized. That is only one piece of evidence in regard to the illegality of this American Federation of Labor.

In reply to an article which was written by myself in 1902, Mr. Gompers said he begged "to state to Mr. Merritt and his fellow sympathizers that the American Federation of Labor will never abandon the boycott," and, he added, "it may spell ruin and bankruptcy to the boycotted, but what of it?" What ruthless cruelty! It was immaterial to him that it spelled ruin and bankruptcy to the boycotted. He speaks of it as glibly as Mr. John Moffitt did of the \$250,000 damages he had caused H. H. Roelofs & Co. in his boastful report to his members.

Now, that is the organization with its organizers throughout the length and breadth of this land, which are reporting again and again that the boycotts of the American Federation of Labor were being pushed; that is, the organization with which the United Hatters of North America became affiliated in 1896. They are, therefore, bound by the constitution and by-laws of that organization, and, as I hope his honor will charge you and believe he will charge you, when it was put into the constitution and by-laws of the United Hatters of North America that they should affiliate with the American Federation of Labor and when the means by which they should nominate and elect delegates to the American Federation of Labor was put into the United Hatters' constitution, then every member of the United Hatters of North America became bound by the acts of this boycotting machine and became liable, each and every one of them, for any wrong, any damage, any injury that was inflicted by the employment of any of those methods. And the officers of the United Hatters also signed a certificate of affiliation agreeing to be bound by that constitution and by those by-laws and by its usages, and when they affiliated their union with the Ameri-

can Federation of Labor and by their duly authorized officers, in pursuance of the provisions of its constitution, affixed its signature to a paper of that kind, they became coconspirators in a case like this, and all the testimony of ignorance can't save them.

But the United Hatters of North America had a purpose in joining this organization; they had already been engaged in this work to compel manufacturers throughout the country to run union factories and to use the union label, and no sooner did they affiliate, in 1896, than Mr. Phillips introduced a resolution to the convention of the American Federation of Labor, which was duly passed, calling upon all members of that great Federation to buy no hats except they bore the union label. Now, they joined that organization in order to employ its facilities in assisting them in more effectually carrying out this great work of compelling hat factories throughout the length and breadth of this country to become unionized.

The question of liability of these defendants for every act and word of Mr. Gompers, while pursuing the purpose of this organization, and for every act and word of Mr. Moffitt and Mr. Maher and of Mr. Lawlor, while pursuing the purposes of their organization, is one that I wish to elaborate on at the very closing, but I call to your attention this fact at this point, that the relation of each individual member to Mr. Gompers or Mr. Morrison, the secretary of the American Federation of Labor, and to every act of that Federation, is exactly the same as their relation to Mr. Moffitt, Mr. Lawlor, and to Mr. Maher. Once every three years they elect delegates to the convention of the United Hatters of North America, who are authorized and empowered to elect officers. Once every year, under the constitution, they elect delegates to the convention of the American Federation of Labor, who are empowered to elect its officers.

I do not care, for it is immaterial to this case, whether they went to that convention and took part in that election or not. It was their privilege, it was their opportunity; their constitution provided for it and they are bound by the terms of

their constitution. There would be nothing done; there would be no Samuel Gompers elevated to the position of power that he now occupies were it not for the acts of two million men who are in a similar position to these two hundred defendants. They cannot escape the responsibility by staying at home, blindfolding their eyes, and stuffing their ears. When they joined that organization, they were bound by what that organization does in furtherance of its purposes, and the court, I believe, will so charge you. That is the reason I am directing your attention now to what the American Federation of Labor was doing. It is immaterial to us whether or not the American Federation of Labor ever put Mr. Loewe on the unfair list. The material point here is there was a great machine, going throughout the length and breadth of the land, and all its facilities were marshaled and lined up against our clients. Now, when Mr. Phillips introduced his resolution in the convention of the American Federation of Labor in 1896, that was but the first step in the co-operation that they were going to carry on between the American Federation of Labor and the United Hatters. In 1898, when they got into the difficulty with Mr. Berg, they immediately went to the very next convention of that American Federation of Labor and passed a resolution, the true significance of which is almost difficult to grasp, agreeing not to deal with any jobber or any retailer or dealer of any kind that handled any goods that did not bear the union label. There is no question as to why the United Hatters united with the American Federation of Labor. It was because they felt that they could employ that machinery to expedite the matters they had set about in creating this great monopoly, and they in turn agreed to help the other unions affiliated with the American Federation of Labor so far as they were able in conducting their boycotts. Now, this co-operating has been going on ever since 1896. The United Hatters of North America, paying money which came out of the pockets of these 200 defendants and others, to support this boycotting machinery which was carrying out the boycotting purpose of the Federa-

tion's constitution; year after year electing delegates to the conventions of the American Federation of Labor, year after year these delegates serving on committees of the American Federation of Labor—such as boycott committees, label committees, committees on President's report, etc.—and every one of these defendants was responsible for this co-operation because he was supporting it and making it possible for it to continue.

I think I will take you through the Berg trouble, but I will be brief. When trouble was created in that factory, the first thing they did, as I have said, was to turn the batteries of the American Federation of Labor against all nonunion goods and more particularly the goods of F. Berg & Co. But they were not satisfied with that. They did whatever they could to prevent this factory from engaging in the business of manufacturing hats, as well as preventing the sale of its hats. After the men were out on strike, some thousand men came from another organization and wanted to go to work there, and the United Hatters, regardless of every interest of its organization, immediately took this thousand men into their organization to keep them from working in Mr. Berg's factory. Then they picketed the factory and, as they said, every line of approach to the factory was manned. Then men brought in from different places, Pennsylvania, Fall River, New Jersey, were met at the station and turned back, I don't know by what means, from going to work in that factory, although undoubtedly they had been brought there at the expense of F. Berg & Co. Then the employers, finding themselves crippled, finding practically every labor port blocked, turned to their friends in the trade to help out the business, and went to a neighbor, Austin & Drew, in Orange, and got them to manufacture hats for them, or finish them up, or do some work on them. The union went to Austin & Drew and said, "You are doing work for F. Berg & Co. If you don't stop we will take the label out of your factory." According to John Moffitt, the label for this reason was taken out three times. Then they undertook to have their hats sold by the Volk Hat Company of Nor-

walk, in connection with union hats made in the Volk factory. Mr. Maher and others went to Norwalk and took the label out of that factory and would not restore it until the Volk Company had agreed not to sell the goods of F. Berg & Company. Then the factory was successful in having some work done in what they call buckeye shops in New Jersey, being small shops which some of these witnesses have seen fit to cast slurs upon. And the union, having obtained information of that fact, in some way brought about the discontinuance of that sort of practice. But despite these efforts, Mr. Berg must afterwards have got some employees. I don't know how he did it in the face of all that opposition, but he must have got employees, for they undertook to boycott him throughout the whole length and breadth of the land, employing the whole machinery of the American Federation of Labor to do it. They levied a special assessment of two per cent., and the delegates went around from one local to the other to try and convince the various locals of the United Hatters that they should support this special assessment for the purpose of sending agents upon the road. I will read you the report which was made to one of these local unions, as to the reasons which were advanced why they should support this two per cent. assessment to help ruin the business of that concern. "Mr. Daniel Brady, of Orange, addressed the meeting. He said that when they entered the strike it was the intention to force Berg & Co. fair."

I want you to follow this, gentlemen of the jury, particularly because later on it sets forth exactly what took place in the Loewe factory after the strike took place. It shows that all these men were cognizant of the damage and destruction that was worked in the factory by taking away the men as a whole.

"He said that from the evidence he had received when he left Orange he was convinced that they were right and Berg & Co. will be forced to make their factory fair or go out of business. There are six men on the road working on the Berg & Co. hats. When he worked in Berg's, he said, they turned out 2,100 dozen hats a week, and his profits were \$30,000 a year,

which is 5 per cent. on a business of \$600,-000 a year. The record for the past week was 69 dozen a day, or 483 for the week. It took 115 dozen a day to pay the running expenses of the Berg & Company plant. He said he was satisfied that Berg & Company was beat. There were 57 practical finishers in the factory and the rest were learners, and the practical men were employed fixing over what the others had spoiled. That Berg had given orders to the foreman to press down on the men and get better work and, as the floorwalkers expressed it, the hats were coming back like an army of ants."

Now, Mr. Moffitt in his report says that after these things were done, after this 2 per cent. assessment was levied (and he got I don't remember now how many thousands of dollars for the sole purpose of sending agents on the road to interfere with the business of these men), that he had obtained information as to the shipments of F. Berg & Company and he directed his agents, or bloodhounds as I am going to call them, to chase down the customers of F. Berg & Company in every single place where they did business as his information secured by his spies would indicate. And these agents, just like Martin Lawlor, went out armed with this information and visited the various dealers that handled the goods of F. Berg & Company, and when they went to dealers they didn't say, "Do you handle any nonunion goods?" They said, "Do you handle the goods of F. Berg & Co.?" And so they went from customer to customer, and Byrne, as I recall, reported from San Francisco that he had succeeded in ridding San Francisco of scab hats. The Georgia State Federation of Labor put Berg & Co. on the unfair list and the various unions affiliated with the American Federation of Labor were employed in each locality to concentrate their forces against any jobber or any retailer who did not conform to their requests. In all, on account of this Berg strike, sixteen hundred men were taken into the union to keep them from seeking work there and \$18,000 was spent to unionize the factory. And do not forget, when it comes to the question of whether these agents were

advertising agents or whether they were boycotting bloodhounds, as I call them, that the charges for their salary are put in the report of Mr. Moffitt relating entirely to the Berg strike itself, and not put in any report concerning advertising. Do not forget, further, while I am on that point, that the expenses of agents are put in the Defense Fund, employed on strikes and lockouts, while the question of advertisement and the cost of advertisement is put in the National Fund proper. That does not look as though these were advertising agents. I tried to get the reports concerning the strike of Henry H. Roelofs & Co. Mr. Maher told me there was such a report, the same as there had been a report in connection with the Berg case, and that it was submitted by Mr. Moffitt. But he has never found it. Yet, I will guarantee you if it were produced you would find the same thing true in the Roelofs case that you do in the Berg case—that the expense of these agents was not charged off to advertising, but was charged off in the Defense Fund, as in the Berg case, and that Mr. Moffitt's special financial report of the Roelofs strike would include them under the head of the expense of the Roelofs fight.

Now, here is the situation. I am not going through the Roelofs strike, for I haven't time. There was more fighting in Mr. Roelofs' strike than there was in the Berg. Every one of these agents had special information concerning Mr. Roelofs' shipments, as is stated in Mr. Moffitt's report, and the reports of the agents indicate that they went about the country enlisting the assistance of the various unions affiliated with the American Federation of Labor, employing that whole machinery to help them accomplish their purpose until, driven to it by the fact that bankruptcy faced him, Henry H. Roelofs did something which we won't do—he yielded; he became a part of this unlawful combination. Now, here is the condition on the eve of the Loewe strike. This co-operation had been going on for six years between the United Hatters and the American Federation of Labor. The very men who were employed by the United Hatters of North America as agents to do this work were recognized

as the official organizers of the American Federation of Labor, so that when they went from town to town, from commercial center to commercial center, they were not in a position to merely request the assistance of the local unions, the city councils of the State Federation, but they were in a position to command their assistance as officials and organizers of the American Federation of Labor.

And here is this machine as Mr. Lawlor described it at the date of the commencement of the Loewe trouble with 25,000 local unions scattered throughout the country. It staggers the imagination—the pocketbooks of two million men supporting this work. There were 529 city councils, each city council comprising in its membership all the unions of the particular city in which it existed, so that at a moment's notice the full force and effect of the combined membership of all the unions affiliated with that council could be brought to bear against any dealer by having a committee call upon the dealer from the council at the request of some representative of the United Hatters of North America who was also an official of the American Federation of Labor. And, then, there were 29 State Federations, and these State Federations include every single union, unless it were perhaps railroad unions, in a particular State, so that the whole force and power of all the unions in that State could be turned against any jobber, retailer, manufacturer, or whoever it might be that did not conform to their wishes and cease dealing with the particular manufacturer with whom they were having difficulty. And, in addition to that, there were 1,100 organizers, each one reporting back from time to time throughout the length and breadth of this country, from the various commercial centers in which our clients and other manufacturers sell their goods, that the boycotts of the American Federation of Labor were being pushed.

Now, that is the great engine of destruction that was in existence on the eve of this trouble in 1902. It had its grinding mill in every single trade center, so that any man who had the temerity to refuse any request of theirs which they were determined to have granted stood

no chance to maintain his business relations if it were turned against him. Why, gentlemen of the jury, I don't believe in the history of civilization there ever was such an organization, so intricately adjusted, so carefully organized, with wheels within wheels, so that it could be applied with the greatest expedition and with the greatest effect to sweep before it any one who got in its way. And when Mr. Kelly and Mr. Hennelly, Mr. O'Haire, Mr. Byrne and Mr. Murphy, and all who are called organizers of the American Federation of Labor, in the American Federationist for 1902, started upon their dirty work, they were in a position to command the assistance and aid of every one of these unions to help them in accomplishing their end. This was the situation on the eve of the Loewe strike, when the officers of the United Hatters came to Mr. Loewe and asked him to unionize his factory.

It is perhaps immaterial to point out how these negotiations first commenced. Mr. Maher came to see Mr. Loewe in November, 1900, which would not be so very long after they had unionized Mr. Berg, and then he reported back to his General Executive Board as having made up his mind at that time to carry the matter to a conclusion sooner or later. And he gave his report to the board so that they understood he was going to carry it to a conclusion. They approved of what he was doing and encouraged him to go ahead. The time slipped by with one delay or another, until March 6, 1901, when these men met Mr. Loewe and told him they were going to employ their usual methods instead of peaceful methods, that they were going to force him to unionize his factory; and Mr. Loewe left with the understanding that he was going to consider the matter and write them. And I think on March 20 he had a further interview with Mr. Maher and Mr. Lawlor. You remember Mr. Maher didn't recall that meeting at all until I finally led him to recall that there was a meeting, but he didn't remember anything that had taken place at it. And then Mr. Loewe, after discussing with them the meaning of the constitution and by-laws, and negotiating as to whether it was advisable or not to

unionize the factory, wrote them on the 22d day of April, 1901, that splendid reply which closed, "Firmly believing that we are acting for the best interests of our firm, for the best interests of those whom we employ, and for the best interests of Danbury by operating an independent or open shop, we hereby inform you that we decline to have our shop unionized, and if attacked shall use all lawful means to protect our business interests." Now, why didn't the trouble happen then when Mr. Loewe gave his final reply? Why didn't they call the men out then for the same reason that they called them out July 25, 1902? Mr. Maher said that he and Mr. Barrett had decided July 25, 1902, that if Mr. Loewe would not unionize, union men ought not to work for him. Why didn't they do it April 22, 1901, when they got that final, definite, decisive refusal to unionize? If they had in mind that no union man should work for him when he refused to unionize, why didn't they call them out then? I will tell you why. On the 19th day of April the men were out of the Roelofs factory. Three days before Mr. Loewe wrote that splendid answer the men were out of Mr. Roelofs' factory, and those men who were operating the United Hatters of North America felt that they could not conduct successfully two fights at the same time, and so Mr. Loewe never heard another word from them until over a year after that.

Now, see the connection with the termination of the Roelofs fight. On the 19th day of July, 1902, Mr. James P. Maher, Martin Lawlor and John Moffitt, and others, were in Philadelphia and affixed their signatures to the document which showed that Henry H. Roelofs & Co. had been coerced into subjection. Five days after that Mr. Maher gave his orders to call a meeting in Danbury in order to have the men come out of Mr. Loewe's factory during that period of time instead of being ordered out before, and these events which followed are the things that Mr. Maher had in mind when he said he meant to exhaust all means to accomplish this end. That is his testimony, that he made up his mind in advance to unionize Mr. Loewe's factory, and that he meant to

exhaust all means in his power to accomplish that end.

Now, gentlemen of the jury, there can't be any doubt in your minds, I believe, as to who caused those men to come out of Mr. Loewe's factory. The idea of unionizing it originated in 1900. Nothing was done about it until 1902. These men did not stay there unless they were actually satisfied. Mr. Maher states that he could not name a single man in Mr. Loewe's factory who had ever asked him to unionize it. Now, as to how it originated there can be no doubt, and as Mr. Maher himself testified that he called them out in furtherance of a plan and scheme they had entered upon in these previous meetings of the General Executive Board to unionize that factory, the only question is how much influence was brought to bear against these men to get them to leave. There is no question but what they would have stayed there if Mr. Maher had not come to town the day before. That was no mere coincidence. The only question is, how much influence was brought to bear, and I want to say to you that I believe under the testimony in this case the court will charge you that it is immaterial whether they were coerced or persuaded to come out; whether it was due to a frown or a smile; whether they were asked or whether they were ordered; it was part of the combination to prevent Mr. Loewe manufacturing and selling goods for interstate commerce, all of which had been planned at least as early as March, 1901, when they agreed to employ their usual methods, and being a plot in furtherance of that combine, it is immaterial to what extent influence was brought to bear and whether they were coerced or persuaded.

Gentlemen of the jury, you cannot believe, I am sure, that these men came down there voluntarily and willingly. They were summoned down to a meeting at the beginning of the business day, which is contrary to the usual practice when you want to talk matters over and discuss them at a union meeting. You cannot make me believe that every man went down there willingly; that there was not a single one of them but what would have liked to have gone on earning

that day's wages for his wife and children. You can't make me believe that unanimity or concerted action comes from any slight influence or persuasion. These men went down there knowing that it meant trouble when they were called out at the beginning of a business day; they went to the hall like fearful men upon a fateful summons. They went down there because one of the three men who hold the control of the employment of the men in the city of Danbury in the palms of their hands ordered them to come. These defendants, many of them, have taken the stand and said that it was necessary to belong to the hatters' union in order to earn a livelihood in the city of Danbury, and for this reason those who are dependent upon their trade would not dare to disobey the order of James P. Maher or any other national officer of the organization which controls the employment of men in nearly every factory in the city of Danbury. There is not a man employed in a union factory in Danbury but what is employed by the grace of that organization. If their employer had directed them to go down to that meeting, wouldn't they have gone for fear that they would lose their employment? When the head of the union which controls their employment says "Come," would they dare to stay behind?

Now, let us see what took place at that meeting. Were these men consulted as to whether the factory should be unionized? Not so. Mr. Maher attended the meeting and directed them as to what they should do. He says, "We unionized Berg, we have unionized Roelofs, and it will be but a few days before we get Mr. Loewe." And my friend should have put in his complaint that one of the means, by which they got these men out of Loewe's factory was not only coercion but fraud, for these men supposed that they would be only a few days out of employment if they obeyed the orders of Mr. Maher, as the factory would be unionized, and that on the other hand they would be forever out of employment if they didn't obey his orders. They never doubted his success. Why should they? Mr. Berg had put up a plucky fight; Mr. Roelofs had put up a plucky fight. He

pointed that out to them as evidence of the statement that he would win with Mr. Loewe, and why should any man doubt it?

So they saw it in just this way, that in a few days the control of the men in the employment of D. E. Loewe & Co. would be in the hands of these men who controlled the men in all the other union factories. What, then, does Maher do? He calls their attention to the fact that the union men are the only men that have any show in Danbury and that the non-union man has but a small chance to earn his livelihood. He attempted to testify that the men made a motion to go out. On cross-examination he said he was not quite sure about that, but he still thought that was the case. Well, that can't be the case. There are four witnesses against that; Mr. Hugh Shalvoy said that the vote was simply as to whether they would have a right to return and finish up their work. There was no discussion as to whether they should come out. That was settled. Mr. Floyeske, one of their witnesses, said that some one spoke up and said, "How about going back to work and finishing it?" Mr. Goos said he was uncertain as to his privilege to go back to work for Mr. Loewe and he asked Mr. Charles Barrett if he would be allowed to go back, and he said some one spoke up after the meeting and asked Mr. Maher if they couldn't go back and finish up their work, and that he was still left in doubt concerning their position after he heard Mr. Maher's answer, so he asked Mr. Barrett as to whether or not he was to go back to work. All these witnesses are contradicting each other; Mr. Goos, Mr. Shalvoy and Mr. Maher all disagree on another point. Mr. Shalvoy says, "I stood next to Mr. Maher where I could hear everything he said at the first meeting and he didn't mention Berg's or Roelofs', but he did mention them in the second meeting." Mr. Goos said that he did mention Berg's and Roelofs' in the first meeting. Mr. Maher said he mentioned them in both meetings. I tell you, when your recollections are not fresh, when your stories are uncertain, you can't expect three or four men to agree. Mr. Floyeske says, "I knew every single man

in that room as a finisher," and adhered to it after I pressed him on that point with several questions. We all now know by the overwhelming testimony that there were both finishers and makers in that room. Martin Lauf said they held separate meetings for finishers and makers because it would be too crowded. Now, the testimony of none of these men is reliable. James P. Maher said, "I am not sure what I said to the various groups of men that I might have spoken to after the meeting disbanded." But don't you believe that what Mr. Goos told Mr. Loewe right after the meeting and Mr. Loewe testified to was true in all points? Remember this: Mr. Goos came back fresh from that meeting, when his recollection was clear, and he testified that he told Mr. Loewe everything that he remembered at that meeting. He now swears that he didn't tell Mr. Loewe of the things that Mr. Loewe testified to, but you could see by the way he shifted on that witness stand concerning his story so that it took me half an hour to get him to say that Mr. Maher was putting forth these arguments to induce the men to stay out, that he was not a frank witness. And so it was with all the rest of them. They are all contradicting each other. But the story as it came back to Mr. Loewe—at that time he was dealing with a crisis of his life—was branded on his memory and is reliable. Mr. Maher said he did not regard the Loewe matter as of any consequence or importance at the time and had forgotten these things. So there are many things he does not remember, all that which actually took place. But Mr. Loewe did not manufacture these things, and counsel proving this did not cross-examine him concerning them, for the reason that they felt that his recollection was true and his story was plain. You know well enough counsel examines a witness whom he thinks is not telling the truth, but when the witness tells a plain and truthful story he does not cross-examine him, and that is the reason that defendants' counsel didn't cross-examine Mr. Loewe as to this or any other stories that he has told concerning these interviews with the national officers. They haven't dared do it, because they know his story

stands on a rock foundation, and I was astonished myself at the distinctness and clearness of this man's recollection. It seemed to me almost incomprehensible until I realized what a great crisis it was in his life. And so his story as to what took place is worth more than four contradicting witnesses on the other side, many of whom admit most of the things that he said but simply deny as to all the minor ones.

So when Loewe testified that his employees were practically coerced to strike, according to the statement of Mr. Goos' story, it seems to me the testimony rested on a rock foundation.

Now I want to say right here in connection with Mr. Loewe, that here is a man who has been dealing with 250 employees, dealing with hundreds of customers throughout the country, and counsel driven to the very limits of desperation to find something on which they can defend this case have not been able to produce a thing which would shake his story or in any way throw any doubt on his veracity or show any complaint of any single one of these 250 employees of Mr. Loewe, or show that Mr. Loewe had ever abused them or treated them wrongly. I think it is the most remarkable case I ever knew. I don't dare hope that I will ever come into court again and represent a man whose life has been so free from blemish, a man so prominent that he is coming in contact with hundreds of people, and yet the counsel for defense in a great case like this hunting for some sort of evidence as a defense, have not been able to find a single thing against him. I have lived in the town, was born in the town, where he has lived, and have been brought up with him, and I listened to much of the testimony concerning his early tribulations as an employee for the first time as to how he worked his way to get established in his business, and I felt proud to come into this court and stand for him. And I think the testimony of such a man is absolutely more trustworthy than the testimony of a lot of contradicting uncertain witnesses, such as they have produced. And furthermore, the very plausibility of Mr. Loewe's story must have impressed itself upon

you. Assume that some timid employee afraid of losing his place came up to Mr. Maher at that meeting and said: "Mr. Maher, suppose Mr. Loewe gets a lot of nonunion men?" would not Mr. Maher have said, "Why, it won't do him any good to fill his factory with nonunion men; we have got our agents on the road." Don't you think it is likely that Mr. Maher said it?

And then Joe Haigh took the stand here and testified that Mr. Barrett had said, and Mr. Maher nodded his head and sanctioned it, "that if the men didn't come out it would mean five hundred or a thousand dollars fine, or losing their card entirely," or, to paraphrase it, losing their chance to earn a living in Danbury. Isn't that plausible? Hadn't they been fining men five hundred or a thousand dollars for going foul, as they call it? How did all those facts spring into the air? Are you going to believe they were fabrications by Mr. Haigh or fabrications by Mr. Loewe? As against any man in the machinery, practically, of that organization? Do you think they dreamed them? Curiously enough, their testimony corresponds with actual facts concerning the internal workings of the union which they could not have accurately manufactured. You certainly don't think that they lied.

I want to say here further that there were six defendants, and union men, put on the stand by defendants and examined who were present at that meeting; and they were not asked a word about what took place. With every single finisher and maker in Mr. Loewe's factory being now a union man under their control, and there being about one hundred and fifty of them that left that factory, they produced a paltry eight or ten to prove what happened. It is fair to believe, out of respect for counsel, that they have carefully examined each single man that they could reach who left that factory. They didn't do their duty unless they did, and after they had got through examining them they produced the testimony of some eight or ten of the 150 men who left. We do not want to know why eight or ten men left; we want to know why the hundred and fifty left. It wouldn't

have damaged us to any great extent to have had eight or ten leave. Why didn't these men who were under the jurisdiction of this organization, which exercises such a tremendous force over their lives and destinies, come here and testify? Again I say to you that I regret the fact that we have not had a more open and frank presentation of the case. Why didn't they produce Ed. Donnelly, who gave them notice of this meeting, who Mr. Loewe says came down to him in 1901, and was so well satisfied with the factory that he didn't want to go to any other factory? Why didn't they produce O'Hara, who also went with Mr. Donnelly at that time and made similar statements? I think this is the most meagre, poor justification for the great wrong that they have done that I have ever known, to produce eight men here and these eight men, most of them, unsatisfactory witnesses. Walter Wood testified he did better when he left Mr. Loewe's factory, but the facts show that he did not earn as much. Sutton Fairchild testified that he got from \$1.50 to \$2.00 in Mr. Loewe's factory, and \$2.00 to \$3.00 in another factory he went to, but the actual facts which we ascertained afterwards are that after he left Mr. Loewe's factory he got \$1.50 a day, or I believe it was \$500 the first year and \$1.50 the next two years. He testified he got from \$600 to \$900 in the factory he went to, when I pressed him on cross-examination. Brann testified he first went to Baird's in Bethel, and stayed a little while, because there was not enough work. That was a union factory. Then he went to Von Gals, also a union factory, and didn't stay there because the work was too hard. He then went to another factory, and finally found his berth soft enough and stayed there. Judson was called here to testify, but he was not employed as a regular hatter; he testified he was only passing hats. We challenged them again and again to show us a union factory that did better by the men than Mr. Loewe. We tried to get their own witness, Mr. Ferry, to compare his bill of prices. The evidence as given is that the men who went out of the finishing department in 1901 came back to Mr.

Loewe's factory as soon as they could get back. They were not all taken in, but practically every one of them applied. Why did they do that if they could just as well work at a union factory in Danbury? I tell you, gentlemen of the jury, there is not a piece of reliable evidence in this case showing any dissatisfaction with the conditions at Mr. Loewe's factory. In sanitary conditions it was absolutely unquestionable; as to the wages, it was absolutely satisfactory. And the only attempt at a possible justification of this great wrong was to produce eight or ten—I have forgotten the exact number—of such unsatisfactory witnesses as I have mentioned.

I cannot touch upon all that happened in Danbury after this strike took place; I haven't time. I want you to remember two things. The greatest asset in a man's business is his organization; it takes years to build it up. According to union regulations it takes three years for a man to become a full-fledged hatter. He has to serve three years' apprenticeship, so the first thing they took away from us was the whole organization, so that our factory became a kindergarten, full of a lot of learners in the same condition that Mr. Berg's factory was, and great loss and damage was suffered thereby. The next greatest asset in a man's business is his good will, his trade with his customers; and that asset is the fruit of integrity, efficiency and honorable treatment for many years. It is capitalized in business at large amounts. One of the greatest assets a man can have is his customers that learn to come to him and will continue to come to him because he serves them well. Now they undertook by threats and coercion to turn this man's customers away from him; they might call it booming the union label, but that is only a misnomer. It is not booming the union label when they tell Triest he can deal with 99 other manufacturers, but not with Mr. Loewe. It is not booming the union label when they employ Brady to furnish information to Mr. Moffitt to set the bloodhounds to work against his customers in any part of the country they may be in.

It is not booming the label after Mr. Sykes finally gives up Loewe's business

because of losing business in Richmond. They not only turn against Mr. Loewe, but against Mr. Sykes himself. It is not booming the union label when they tell Longlry, Lowe & Alexander that they will order the men out of their factory if they handle Mr. Loewe's goods. It is not booming the union label when they go to Philadelphia and other places around Baltimore and Pennsylvania and say to the customers that they have no right to patronize any retailer who persistently patronizes a jobber who handles unfair hats, and when they say they feel it is money well spent to convince a dealer that the labor organizations will not patronize a concern that is handling unfair goods, or any retailer who will patronize a wholesale concern which persistently handles such goods. It was not booming the union label for Mr. John Moffitt to telegraph to San Francisco asking how much money to send to start a boycott. It was not booming the union label when he telegraphed San Francisco after Triest had ordered 68 dozen hats and instructed his man to see Triest about it. It was not booming the union label when they went to Washington and Oregon and got the State Federations together with the San Francisco Federation to join the forces of the Pacific Coast against one poor jobber because he chose to deal with D. E. Loewe & Co.

Mr. Reed testified that five dealers in New York came to him in one day and said that they had been visited by the union concerning his handling Mr. Loewe's goods. The fact is, in New York City, Baltimore and Philadelphia, our business fell off \$132,000 between 1901 and 1903.

I now want to get at the question of damages as shown by our books. I want you gentlemen of the jury to understand one thing, that certified accountants have been put on these books. They have been over every item, and it stands absolutely as we originally presented it. Follow this chart of mine. In 1898, \$16,000 profit; in 1899, it was only \$11,000, this decline being due to the fact that Mr. Loewe produced army hats under contract in 1898; in 1900, \$24,000; 1901, \$27,000 profit. And then in 1902, what happened?

There is where they left us. (Showing a drop in the chart.) There is where we were, gentlemen, when the complaint was drawn in this case. 1902 and 1903. Way down below the mark. There (indicating) is where we were getting along prosperously before they interfered with us (indicating). There is where we are now, as far as this case shows.

The word sent out by these men in the course of a month had worked us \$88,900 damage, and more, in the course of two years. I will explain it to you in just this way. Mr. Beach stated in his opening statement that he was going to show to you that we had not even undertaken fairly to present our damage. He has abandoned that.

Mr. Beach: What?

Judge Light: Don't be too sure of that.

Mr. Merritt: He also stated that they were going to offer testimony showing that trade conditions were not as good in 1902 and 1903. I guess he abandoned that after Mr. Ferry produced his figures. The fact is their figures show that 1902 and 1903 were more prosperous years than 1901, which are the years upon which we base our damage. All we say is, if we had done as well in 1902 and 1903—and we would have done better if we had been left alone—as we did in 1901, we would have been \$88,900 better off. We were earning \$27,700 net profit in 1901. We could have earned the same amount in 1902 and 1903, which would have made \$55,590; but instead of that, we suffered a loss of \$17,591 in 1902 and \$15,738 in 1903. So the loss we have suffered, plus the profit that we should have made, or would have made if we had been left alone, was \$88,900. Now, gentlemen of the jury, I know that is a large amount. I know this is a big case, and I know that the people throughout the length and breadth of the land are looking to you people to do your duty in this case. And I hope that you won't feel that you have got to compromise. I hope you will feel that you can bring in a verdict in accordance with the facts as they are shown; that is, a verdict for \$80,000, which we have proven beyond a peradventure.

I say to you further that that does not

represent all our damage. That damage, as based upon facts and figures, represents an annual loss of business of only \$170,000, while I am able to point out to you that we lost \$210,000 a year with only 26 customers. This is due to the fact that we obtained over \$40,000 new business which would have gone to increase our profits. The fact is the gain of \$40,000 new business which we were entitled to and which, if we had been left alone, would have gone to increase the profits over what they were in 1901, has in this case decreased our loss. I hope that is plain. This practically makes a difference of 20 per cent. in our damages, as it represents a loss in business at least 20 per cent. more than we counted. If you take 20 per cent. of the loss we have up over \$100,000, and we think we have distinctly proven it.

There is where we were when the curtain went down (indicating on chart). We haven't been permitted to show you what happened after that year 1903, although we tried to.

Now I have got but a few moments to say what I would like an hour to say concerning the liability of these defendants, and it simply amounts to this, to bring it right down to a close question. When a man joins an organization and pays dues to it he is bound by its constitution—by this constitution which provides that its officers should use all means in their power to turn all factories fair. I don't care if they never heard of Mr. Loewe. I don't care if they never directed a boycott against Mr. Loewe, they are responsible for that boycott even though under the constitution their officers were forbidden to do anything but lawful acts. The fact is they are responsible in law for everything that was done by their officers in furtherance of an attempt to turn a factory fair or union; and I trust his honor will so charge you. If I run a newspaper in behalf of John Jones, and he directs me not to publish a libel in it, as I am editor, and yet contrary to his instructions I publish the libel, John Jones is responsible, although he particularly prohibited me from so doing; he is responsible because that libel was published in furtherance of his business, in fur-

therance of the things which I was employed to do. And so if you employ a driver to go down the street for you and you instruct him not to be negligent, and he runs over a child through recklessness, you are responsible because he was on your business. Or if you employ a man to buy and sell for you, and you tell him never to commit a fraud, and he commits a fraud, you are responsible for that fraud. The reason is because every one of those things was a thing the agent was doing in pursuance of your business, and there cannot be any question in this case that every single thing that was done by Samuel Gompers, John Moffitt, James P. Maher and Martin Lawlor was done in furtherance of the attempt to compel this manufacturer to become union. And I would like to express my sentiments of the defendants who came up here and tried to plead ignorance of a case like this and escape liability in that way. They were paying their dues and they could be and were informed as to what was going on, for their officers published journals monthly, and published the reports of the conventions, telling what they had done, although they say that these were campaign documents. But these things were published and they were published in the Danbury News and talked about by the local men. Now if all these things were being done by the officers and were supposed to be for their benefit, they are responsible.

Now what are the consequences of not holding them responsible? It means that the pocketbooks and moral force and influence of two million men can be turned against one man and that two or three officers who carry on actively the work are the only men that we can get any redress from. It means that every union will elect to office the men who haven't any money, who can carry on these unlawful acts so that people who are injured will not have the right to recover. I tell you, gentlemen of the jury, that principle is wrong. If the forces and resources of two million men can be turned against us, we have a right to take the finances and resources of every man who was supporting the unlawful work committed. Now I don't separate any of these defend-

ants. They are all in the same class. I don't care whether they are officers or individual members. They are all exactly in the same predicament, and every one is responsible for the work that was carried on in their behalf.

As far as financing this case goes, it would make no difference whether you held the 20 odd men who were taking personal part in any one of these boycotts or whether you held the whole two hundred. The union is going to take care of it. The American Federation of Labor has pledged its financial support and ten cents assessment made upon the membership of the American Federation of Labor will bring that money. Martin Lawlor testified it is his intention or inclination to take care of this case for the two hundred defendants and that a five per cent. assessment on the members of the United Hatters of North America will raise enough money to take care of the suit, or \$250,000. So it does not make any difference to us, so far as the financial end of this case is concerned, whether you hold twenty or two hundred. But I am considering the principle of this case if you do not bring in a verdict in that regard. I think we should stand here lighting a light which cannot be put out in this country. I look to you, gentlemen, to do it, and that light will be the verdict you will bring in, which says to any man who belongs to the association and contributes to it that he is responsible for what that organization does. If a man chooses to join an organization of that kind and finds it is doing wrong he must reform it or get out of it. He cannot stay in and pay money for the continuance of the work.

Now, gentlemen of the jury, we are dealing with the most vital principles; principles which in a way involve the greatest problems that concern this country to-day, the principles of individual liberty. All we ask is that they will let us alone and let us run our own business, and not put their bloodhounds on our track. You may not like me; you need not speak to me. You may not like my store; you need not trade in it. You may not like my factory; you need not work in it. But you shall not organize

men against me to ruin my business. I have a right to conduct that business and you have no right to destroy it. Men have certain rights of life, liberty, reputation, property and business. You can take my life—that is murder; you can say evil things about me—that is slander;

you can put me in a room and chain me there—that deprives me of my liberty; and when you organize men against my business—that is a boycott. To do these things is not only to turn against the laws of this country but to turn against the eternal laws and the laws of Moses.

Proceedings of the Section on Legal Education of the American Bar Association

Detroit, Michigan, September 2, 1925

THE meeting of the Section on Legal Education of the American Bar Association was held in the Book-Cadillac Hotel, at Detroit, at 9 a. m., September 2, 1925.

Presiding: Hon. Silas H. Strawn, Chairman. John B. Sanborn, Esq., Secretary.

Chairman Strawn: Ladies and Gentlemen: The Section on Legal Education will please come to order. I understand that last evening you had a meeting and adjourned until this morning. You have all read, I dare say, the report of the Council, which appears in the program as printed. It, therefore, will be unnecessary to go over that report.

Two or three things have occurred to me which I may mention as being perhaps work which the Section should take up during the coming year, and more especially the Council. Without criticizing any of the member Associations of the country, it has seemed to me that they have not gone quite far enough in bringing about the adoption of the A. B. A. rule in the several states. They have been very industrious and successful, I think, speaking generally, in bringing about the adoption of resolutions in the several Association meetings; but it seems to have ended there, speaking generally. They have not followed up those resolutions by importuning the several state authorities, whether it be legislatures or courts, to crystallize the results into the form of rules or statutes. So that the result is that there has not been very many states which have adopted the A. B. A. rule. It is somewhat regrettable that the more populous eastern states, like the commonwealth of Massachusetts, states of New York, Pennsylvania, and some of those big populous states, have not adopted the A. B. A. rule. We realize, of course,

there is a great deal of politics in it. It seems to me, in the way they are situated, not only on the part of the Bar, but on the part of the citizenship, that they should come to the rule, because it seems to me almost an economic necessity on them that the requirements for admission to the Bar should be very much tightened. In other words, I assume those of you who are active in the practice—and I guess all of you are—have it brought to your attention every day, the shortcomings of a lot of lawyers who are admitted to practice law. Many of them misconceive the purpose of their license—I know they do in our state at least—and some of them regard it as a license to loot rather than a license to practice. Some striking examples of that are found in the bankruptcy court. Very recently we had an experience, not myself, but a member of my firm, in a bankruptcy matter, where a lawyer representing one of the parties in that litigation was perfectly ruthless and outrageous in his demand for compensation; no conception of any right or wrong about it; he simply availed himself of an opportunity to hold up a bankrupt estate. Only a vulture could be comparable to his voracity. I have heard complaints from a good many federal judges about the tremendous amount of work which is precipitated upon them by the inadequacy or the obliquity of lawyers who practice in the bankruptcy and criminal sides of the federal courts. Especially is that true in cases arising under the Volstead Act. As you know, many of our federal judges now sit as police magistrates, on account of this Volstead Act enforcement, and it seems to me that the American Bar Association, and especially this Section, could well recommend to the judges of the several federal courts throughout the country that they tighten up the rules with respect to admission to practice in the federal courts. Of course, generally speaking, anybody who is admitted to

practice in a state court can, on motion, be admitted to practice in the federal court of his district. But it would seem to me that the federal courts could well adopt the rule that obtains in Illinois and New York, especially with respect to the creation of a committee on character and fitness. As you know, in New York and Illinois, we have had for several years a committee whose duty it is to look over these aspiring jurists after they have passed the law examination, after they have complied with all of the conditions precedent, except that of qualifying in character and general fitness. Now, you would be surprised to know the great diminution in number of delinquents at the Bar that that has brought about. In other words, the work of the Grievance Committee of the Chicago Bar Association has been very materially reduced, as Mr. McMurdy may perhaps know. That is a simple machine, that Committee. It is created, under our law, by appointment by the judges of our Supreme Court, one for each of the Appellate Court Districts. And after those young lawyers have passed their examination for admission to the Bar, they come before this Committee. And, on another occasion, I think I told you of my experience. I happened to be on the Committee for a couple of years. It is really interesting to note the different types of humanity which came before us. That was during the war time, and the standard was not so very high. Most of the regular fellows were off at the war; but we prevented a lot of these young men from getting a license to practice law who would do nothing but abuse it. In one or two cases they have gotten by the Committee; with some reluctance the Committee had passed them in, and before long they were before the Grievance Committee of the Bar Association. They have no distinguishing sense as between theirs and their client's. It seems to me that the Bar owe it to the federal courts to help in every way they can to reduce this burden that is imposed upon the federal judges, on account of the performance of duties in bankruptcy and in the enforcement of the Volstead Act.

While it would be rather presumptuous, I dare say, to assume to dictate to the federal courts a rule, it would seem to me that they might be receptive of the suggestion which would enable them to formulate a uniform rule. Of course, I assume some of you have noticed some of these gentlemen who argue cases in the Supreme Court of the United States; they do not seem to know very much of what they are talking about, and the court does not get very much help from them. In other words, without any criticism of the Supreme Court on this, I think the rule with respect to admission to the Bar there might be tightened, and I think it might be some rule there that I have suggested with respect to the inferior federal courts. I pass that

on to you as a suggestion which, it seems to me, might be made effective by the adoption of a resolution by this body, and it might be passed on and brought to the attention of the Association as a whole.

Recurring again to my first suggestion about the activity of the Bar Associations, I would impress upon each of you the necessity of getting busy with your local Bar Associations in your several states, and following up the resolutions which they may adopt with respect to the adoption of the A. B. A. rule. Resolutions adopted by Bar Associations are very salutary and helpful in the good cause, but they do not get quite to the end of the road. I know particularly about the Indiana Bar Association. There, unfortunately, as you know, there is a provision of the statute of the state of Indiana which prevents the adoption of the A. B. A. rule by the state. Nevertheless, the Bar Association of the state of Indiana has on two occasions passed a resolution adopting the A. B. A. rule. The University of Indiana complies with our class "A" schools under the A. B. A. rule. I suppose in time the Constitution of the state of Indiana will be amended so that it will be necessary to do something more than to run twice around the courthouse to get the atmosphere before you are admitted to the Bar. But I cite that as indicating the activity of the Bar Association. And I do not criticize the Bar Association for the state of Indiana, because they do not bring about a revision of the Constitution. We have had some little difficulty in Illinois in bringing about a revision of the Constitution, which is very necessary. There the people did not seem to accord with the views of the delegates to the constitutional convention, and we did not bring it about.

Is there anything else that I should bring before the meeting, Mr. Secretary?

Secretary Sanborn: No.

Chairman Strawn: Has any one any suggestions to offer, or any remarks to make? We will be very pleased to hear from anybody.

Mr. Bruce (Illinois): Mr. Chairman, following your suggestion, this Section believes that the rules respecting the admission to practice in the federal courts should be amended so that lawyers practicing there may be required to be better qualified as to have a keener appreciation of the dignity and responsibility requisite to the conduct of litigation in those courts; that thereby not only will the necessity for work and vigilance on the part of the judges of the federal courts be very much lessened, but the administration of justice therein will be more satisfactory to litigants and to the public, and to lawyers;

The Section, therefore, respectfully recommends for the consideration of the federal courts the adoption of uniform rules which shall provide for the constitution by

each of the federal courts of a Committee on Character and Fitness, which Committee to be selected from among the recognized leaders of the Bar.

I move the adoption of that resolution.

Chairman Strawn: Do I hear a second to the motion?

Mr. Bailey (Massachusetts): I second the motion.

Chairman Strawn: Are there any remarks? The question is: Shall we adopt the resolution as read by Mr. Bruce? All those in favor of the adoption of the resolution as read may signify by saying aye?

Voices: Aye.

Chairman Strawn: Those opposed, no? (No response.)

Chairman Strawn: It is unanimously carried. I assume that carries with it the suggestion that we bring the matter to the attention of the Association; is that the idea, Mr. Bruce?

Mr. Bruce: I thought perhaps another motion might lie that the Association may, if it is necessary, adopt a similar resolution.

Secretary Sanborn: You may make that, Mr. Bruce, that the Chairman be instructed to present such a resolution to the Association, as he has the power to do.

Mr. Bruce: Yes; I move that the Chairman of this Section be requested to present a similar resolution in the general meeting of the American Bar Association.

Chairman Strawn: Are there any remarks now?

Mr. Bailey: Mr. Chairman, I would like to make known to you that the commonwealth of Massachusetts, far behind, as it is, in our general education, is fully abreast of Illinois and New York on the matter of moral character. We have a well-established committee in each county on moral character to examine all of the applicants as to their moral character, following the example of Illinois and New York.

I second the motion.

Chairman Strawn: That makes it very satisfactory. All of those in favor of the second resolution signify by saying aye?

Voices: Aye.

Chairman Strawn: Those opposed, no? (No response.)

Chairman Strawn: Now, Mr. Secretary, was there a report of the Nominating Committee? I understand, yesterday a Nominating Committee was appointed, to suggest officers for the ensuing year. Is the Chairman of that Committee present, and is he prepared to submit his list?

Mr. Jones: Mr. Chairman, the Nominating Committee reports the following:

For President, Silas H. Strawn, of Chicago.

For Vice Chairman, Vice President, William Draper Lewis, of Philadelphia.

For Secretary-Treasurer, John B. Sanborn, of Madison, Wisconsin.

For members of the Council, M. M. Lemon, of New Orleans, and O. N. McMurray, of Berkeley, California.

Chairman Strawn: Before I ask whether that is the pleasure of the meeting, I would like to suggest, speaking for myself, that I would very much prefer that you select another President, Mr. Chairman. I do not want to monopolize this high salaried position. It would please me very much if somebody would make a suggestion of a substitute for President. I do not want to cast any reflection upon the judgment of the Nominating Committee, but I feel that I really have burdened you as long as I should; and it would please me very much if you would select somebody else. And I say that in all candor and in all sincerity. You have indicated a very capable vice chairman. If you would advance him to the chairmanship, it would please me very much.

Mr. William Draper Lewis (Philadelphia): While I should sympathize with any suggestion of the honorable Nominating Committee, I have no sympathy for the recent remarks of the Chairman. We are in a position where we need just the type of man that he is, at the present time. Normally, this Section should have as its President a man who is not in the educational work. Now, the rest of us, whether we are normally in educational work or not, are identified with it. And I sincerely hope that the able administration of the President will continue for another year; and if he behaves most properly at that time, then we may excuse him thereafter, but not this year.

Chairman Strawn: I thank you very much for those complimentary remarks, Mr. Lewis.

Mr. Jones: I move the adoption of the report of the Committee.

Chairman Strawn: Before I put that motion, I will answer Mr. Lewis, if I may, in a word or two. I had the misfortune, or rather the shortsightedness, I dare say it may be termed, to graduate neither from a college nor a law school. But it has been my privilege for the last thirty years to have the administrative job of running a law office of some thirty lawyers, and I perhaps am a greater crank on the subject of education than any of you gentlemen, because I have demonstrated the futility of attempting to practice law without equipment nowadays. It was very different thirty years ago, but it is perfectly futile for anybody to attempt to practice law nowadays unless he has a college and law school education. He cannot get to first base. He can fiddle along and run into the bankruptcy court, and defend these unfortunates who have been selected by the United States as violators of the Volstead Act; but when it comes to anything which requires constructive thought, anything which requires an historical background, anything which re-

quires a knowledge of economics, or of world affairs, he just cannot do it. I say I have demonstrated that, because in a few instances we have taken office boys into our organization, who have been very faithful and very diligent. They have gone to night law schools and have come along and qualified, and have been admitted to the Bar. Whether we overworked them as office boys or not, they have developed a very splendid pair of legs, and they can run errands very well, and they are generally fairly conversant with the politics of the town. But when it comes to getting acquainted with a legal proposition, it is very difficult to introduce them successfully. And as I say, I have thought for some time that I am perhaps more of a crank on the subject than any professor in any law school, because of my own personal experience. I discourage any one who comes into my office now, and I have for several years, to make an application to enter our organization unless he has the background of a college education, not two years, but four years. Four years is short enough time to go to a college, and three years in a law school. There is a whole lot that they do not know when they get through with the three years in a law school. Of course, we all know, when we come out of high school and enter law school or college, we think we know more than we ever did before. But, as time goes on, our speck on the cosmos becomes very small, and finally it becomes invisible, if we have the right perspective of ourselves.

But if you insist upon the resolution, and are not content to select somebody else, or do not wish to select somebody else who could perform these duties better than I, why I suppose I will have to yield. I appreciate very much the confidence that you repose, and the honor that you give me by putting me in this position. I want to say, in passing, that I have the active co-operation and performance of a very efficient secretary and his assistants; so that, in reality, the burden of the work does not fall very much upon me. I also wish to take this occasion to thank the members of the Council for their very, very cordial and enthusiastic and helpful support.

Then, the question, ladies and gentlemen, before you is upon the motion which has been submitted, and which is that the report of the Nominating Committee be adopted, and that the gentlemen indicated by the Chairman of the Nominating Committee be declared the officers of this Section for the ensuing year. All of those in favor of that motion signify by saying aye.

Voices: Aye.

Chairman Strawn: Those opposed, no?
(No response.)

Chairman Strawn: Now, Mr. Secretary, have we anything else to come before the meeting?

Secretary Sanborn: I just want to call your attention to the fact that we have a large supply of our lists of approved law schools, which we are trying to distribute as widely as possible. They are in the Secretary's office, and any of you who can take them and make any use of them, we will be glad to have you do it; or, if you know any place or any one where you can distribute those lists, particularly to the persons who have not made up their mind yet what they are going to do about studying law, that would be very helpful.

Chairman Strawn: Have you a suggestion, Mr. McMurdy?

Mr. McMurdy: Mr. Chairman and ladies and gentlemen, I have just a word, a thought that has been lurking in my cerebellum for some years, and it was advanced to the cerebrum, and I think probably it has sufficiently seasoned now for me to venture to present it to this assembly, which two or three days ago might have been called an ex-assembly. It has occurred to me that a great deal of the time and thought and endeavor in eliminating the possible characterless from those who apply for admission to the Bar is lost, because most of these young fellows, nearly all of them, when they have just come from the law school, have had no experience, no temptations, none of those insidious temptations which beset a lawyer, and who, therefore, have no real character in the sense in which we are searching for character in applicants. Certainly they have very little, if any, reputation along that line. And, some method of covering this difficulty has been a subject of thought with me for many years, and I am wondering whether the solution of the problem does not lie in this: That we should not admit these young cubs, whose character is not yet formed, to full association with us who have our characters formed, and presumably well formed, without some period of probation, and whether these young men should not be admitted say for a period of five years, with the understanding that at the end of that time their character shall come before us for review.

Now, the essence of this idea, the psychology of it, is this: That these young men would be very careful to find out what are the proper ethics in the profession during the five years, and it would operate as the criminal code operates, not merely as a matter of punishment, but in a highly persuasive way as a deterrent, so that these young men would be very careful what they do in the first five years of their practice. I appreciate that this is, perhaps, a new idea to most of you, and I am only expressing it here that the thought may be released like a bird, to fly into some unknown corners; and, if the idea has the substance that I believe it has, after mature reflection, then some action may eventually be taken upon it.

I thank you.

Chairman Strawn: Are there any further remarks?

Mr. C. M. Hepburn (Indiana): Mr. Chairman, I do not want to take up your time. The action taken by the American Bar Association in 1921 with reference to the standards for admission to the Bar has had a fine effect. But it seems to me that it has not had the support, as a follow-up, as might be desirable. Take, for instance, the Bar Association in the good state of Indiana; it developed at the first meeting that the Bar Association held after the meeting of the American Bar Association, the standards for admission to the bar recommended by the American Bar Association were adopted without qualification and restriction, and in the year after that the Indiana Bar Association repeated its adoption. Now, that has had a good effect. It has a moral effect, only. Under our Constitution of 1851, every person of good moral character, being a voter, may be admitted to the bar. * * *

Mr. ———: In our judgment, the next thing to do is to get the two-year requirement of study advanced to three years; and then, in addition to that, put on first one year, and then two years of college work. We do not feel that we ought to do it all at once. We went to the Legislature with a simple act, changing it from two to three years. You have got to keep everlastingly at it, until the different localities bring their standards up to the standards of the Bar Association.

Mr. C. M. Hepburn (Indiana): Mr. Chairman, may I add a word I intended to say? It seems to me that these remarks are entirely right. The action has to come through the local bar associations. But how do we give them light and leading in the matter? Through the Journal, I take it. I take it for granted, if it is published, it will go to, if not every member of every state bar association, at least to every member of every council of legal education of every state bar association. Those councils change from year to year. If from year to year every member of every committee or council of legal education in every state bar association gets this journal, and they will get busy on the matter, it will go far towards bringing his committee or council into line with the purposes of the American Bar Association.

Chairman Strawn: Are there any other remarks? If not, a motion to adjourn is in order.

(Upon motion duly made and seconded, the meeting thereupon adjourned.)

The following is the report of Chairman Strawn of the Section on Legal Education to the American Bar Association, submitted Thursday morning, September 3, 1925, at the meeting of the

American Bar Association in Detroit, Michigan. The printed report of the Council of the Section on Legal Education and Admissions to the Bar follows Chairman Strawn's remarks.

Mr. Silas Strawn (Chicago, Illinois): Mr. Chairman, and Ladies and Gentlemen: The report of the Section on Legal Education you have before you in the printed program. I may indulge your patience for just a few moments to mention two features of that report, to which I draw your specific attention.

You will note in the report that the Section during the past year, as it has in previous years, has been quite successful in inducing several law schools throughout the country to comply with the American Bar Association rules. What has been accomplished in that behalf has been most encouraging. We have not been quite so much encouraged, however, in the results obtained in bringing about the adoption by the different authoritative bodies through the several states of the A. B. A. rule.

As you know, admissions to the bar in the several states are regulated in some instances by court rule, and in some instances by statute. What I would urge upon this Association is that in so far as the members of the Association may consistently do so, without seeming to paternalize the local bar associations, that they urge upon the local bar associations to carry out the resolutions which many of them have adopted, in order that the rule may be effectuated in a form which may be enforced.

Mr. Chairman, and ladies and gentlemen, there is another subject which we have discussed in our report, and to which I invite your particular attention, and that is the laxity and the lack of character and the lack of general fitness that is manifested by many of the lawyers practicing in federal courts. That is particularly true of those gentlemen who practice in the bankruptcy and in the criminal branches of the federal courts. The result has been that a great deal of unnecessary labor has been precipitated upon the judges of the federal courts, not only in discharging the duties of their office, but in policing lawyers. We have considered this subject, and with your indulgence, I offer to you for your consideration a resolution which has been passed upon favorably by the Section and which I would submit to you for your consideration this morning:

"The American Bar Association believes that the rules respecting the admission to practice in the federal courts should be amended so that lawyers practicing there may be required to be better qualified and to have a keener appreciation of the dignity and responsibility requisite to the conduct of litigation in those courts; that thereby not only will the necessity for work and vigil-

lance on the part of the judges of the federal courts be very much lessened, but the administration of justice therein will be more satisfactory to litigants and to the public.

"The Association, therefore, respectfully recommends for the consideration of the federal courts the adoption of uniform rules which shall provide for the constitution by each of the federal courts of a Committee on Character and Fitness, this Committee to be selected from among the recognized leaders of the bar."

By way of explanation of that resolution, I may say that several years ago the state of New York put into force a rule constituting a Committee upon Character and Fitness, whose function it was and is to look over these aspiring jurists, and to endeavor to become satisfied, as a condition precedent to passing them for admission, that they desire a license to practice law rather than a license to loot.

Illinois, following the example of the state of New York, a few years ago put that rule into effect, and speaking for the state of Illinois I may say that the effect of the rule has been most salutary. The result has been a great diminution in the work imposed upon the Grievance Committees of that state. I understand the commonwealth of Massachusetts has recently adopted such a rule.

Therefore, Mr. Chairman and gentlemen, I move the adoption of the resolution which I have read.

(This was seconded. The question was taken, and the motion was agreed to.)

REPORT

To the American Bar Association:

The Council of Legal Education and Admissions to the Bar has continued the examination and classification of law schools during the past year. At the time of the last report of the Section there were 43 law schools in this country that met the standards laid down by the American Bar Association. At the present time there are 60 such law schools. In addition there are three schools which it is expected will meet the requirements beginning with the fall of 1926.

The Council, of course, finds it necessary not only to examine new schools which for the first time are meeting the requirements of the Bar Association, but also to check every year the schools which are already meeting these requirements. This necessitates a considerable amount of work on the part of the Council.

The Council is also charged by the Association with the task of bringing home to prospective law students, as far as possible, the position taken by the American Bar Association as to the proper preparation for the Bar, and where that preparation can be obtained. As the standards of the Association require a certain amount of college work it is very important to get in touch with pro-

spective law students before they have completed their preparatory education in order that they may be persuaded, if possible, to take the necessary college work rather than to go directly to a law school which does not require college work for admission.

The Philadelphia meeting of the Section, was largely devoted to a discussion of the means which might be used to get the desired information to prospective law students. Various helpful suggestions were made during that discussion. At present the Council is employing three different methods of approach in the hope that those who are intending to study law may be reached with the desired information.

The first method which we have employed is to enlist the co-operation of the law schools which are on our approved list. The Council has had a very cordial response to its request for assistance from these schools. They have been asked to distribute as widely as possible the information as to the recommendation of the Bar Association and have been furnished a large number of the pamphlets prepared by the Council which states the reasons which induced the Bar Association to take the stand it did on preparation for the Bar.

The second method has been to get into communication with school superintendents, principals of high schools, and particularly with those persons connected with the school system who are especially interested in the vocational direction of the high school students. It has been necessarily a slow process to discover in the various communities those persons connected with the public school system who are in a position and who have the inclination to assist in this work. We believe, however, that very substantial progress has been made along this line.

The third method which comes most directly into contact with the prospective law student, but which does not reach him until a stage in his preparation which makes it difficult for him to change his plans, is to enter into direct communication with those who are registered as candidates for bar examinations. A number of the states require such registration a specified time before the bar examination can be taken. The Council is obtaining, as far as possible, lists of such registrants and is entering into direct communication with them in order that they may be induced, if possible, to take at least the preparation recommended by the Bar Association. While this method gets us into direct touch with prospective lawyers, it has the weakness, as above indicated, of not reaching them until their plans are usually definitely made for their preparation for the Bar.

The Council has heard complaints from judges of the federal courts and other observers that the ability, character and general fitness of lawyers practicing in the federal courts are, at least, not improving. The

Council has given some consideration to the subject and believes that the rules respecting the admission to practice in the federal courts should be tightened to the end that lawyers practicing there may be required to be better qualified and to have a keener appreciation of the dignity and responsibility requisite to the conduct of litigation in the federal courts. Thereby, not only will the work and vigilance of the judges of the federal courts be very much lessened, but the administration of justice therein will be more satisfactory to litigants and to the public.

The Council believes that the several federal courts should adopt uniform rules under the leadership of the Supreme Court which should embrace the principles contained in rules now in force in the states of New York and Illinois respecting the proof of moral character and general fitness of applicants for admission to the Bar.

In general terms the rules should provide for the constitution by the court of a committee on character and fitness. This committee should require the attendance before it of each applicant, with affidavits of at least three practicing attorneys personally acquainted with the applicant, residing in the county in which the applicant resides, testifying to the good character and general fitness to practice law of such applicant; the affidavits to set forth in detail the facts upon which the opinions are based.

Each applicant should be a citizen of the United States and an actual resident of the state wherein is located the federal court to which he seeks admission. He should be able to speak and write readily and intelligently the English language and he should give evidence to the committee on character and fitness that he understands and believes in the righteousness of the principles underlying the constitutions of the state of his residence and of the United States, and that he has such other qualifications as to character and general fitness as in the opinion of the committee justify his admission to practice in the federal courts.

The committee on character and fitness should be authorized by the rule to hold examinations of applicants from time to time and to require the applicant to answer all questions as to his qualifications.

The Council respectfully recommends to the Section the serious consideration of the foregoing suggestion at its next meeting.

Silas H. Strawn, Chairman.
John B. Sanborn, Secretary.
William Draper Lewis.
Oscar Hallam.
J. A. Chambliss.
Wade Millis.
Herbert S. Hadley.
Andrew A. Bruce.
Theodore F. Green.
W. A. Hayes.
Harlan F. Stone.

Registration in Law Schools—Fall of 1925

NOTE.—Registration figures were obtained in October and November of this year. Figures showing the total registration in the fall of 1924 have been added in the last column for the purpose of comparison. The law schools are arranged alphabetically by states. Some of the schools have been recently organized, so that this table does not show in every instance the number of years of study that is now required. The table does not include pre-legal students.

SCHOOL	1st Year.	2d Year.	3d Year.	4th Year.	Graduate.	From Other Departments.	Special.	Unclassified.	Summer School.	Total 1925.	Total 1924.
Alabama											
University of Alabama Law School, Birmingham, Ala.....	67	30	40	—	—	70	4	—	40	1221	129
Arizona											
University of Arizona Department of Law, Tucson, Ariz.	25	16	18	—	—	14	2	—	—	75	75

SCHOOL	1st Year.	2d Year.	3d Year.	4th Year.	Graduate.	From Other Departments.	Special.	Unclassified.	Summer School.	Total 1925.	Total 1924.
Arkansas											
¹ University of Arkansas Law School, Fayetteville, Ark.	10	16	—	—	—	8	—	—	—	34	34
Arkansas Law School, Little Rock, Ark.	—	—	—	—	—	—	—	—	—	—	70
California											
² Lincoln College of Law, Bakersfield, Cal.	10	6	—	—	—	—	—	—	—	16	18
University of California School of Jurisprudence, Berkeley, Cal.											
Three-year curriculum	132	57	50	—	—	—	1	—	143	1411	284
³ Four-year curriculum	—	—	30	26	—	—	—	—	—		
² Private School taught by W. L. Smith, Long Beach, Cal.	1	2	—	—	—	—	—	—	—	3	3
St. Vincent School of Law, Loyola College, Los Angeles, Cal.	50	33	34	25	—	—	37	—	—	179	157
University of Southern California Law School, Los Angeles, Cal.	142	101	92	—	4	—	—	—	138	1367	382
Southwestern University Law School, Los Angeles, Cal.	—	—	—	—	—	—	—	—	—	—	300
St. Mary's College School of Law, Oakland, Cal.	—	—	—	—	—	—	—	—	—	—	43
Sacramento College of Law, Sacramento, Cal.	—	—	—	—	—	—	—	—	—	—	38
Hastings College of Law, San Francisco, Cal.	62	48	32	—	—	—	3	—	—	145	109
Golden Gate College of Law, San Francisco, Cal.	21	30	29	16	8	103	34	—	—	241	127
University of St. Ignatius Law School, San Francisco, Cal.	100	58	32	34	—	—	—	—	—	224	231
University of Santa Clara Institute of Law, Santa Clara, Cal.	21	24	19	—	—	—	7	—	—	164	68
Stanford University Law School, Stanford University, Cal.	—	—	—	—	—	118	4	—	97	1438	290
Colorado											
University of Colorado Department of Law, Boulder, Colo.	39	17	37	—	—	3	4	—	68	⁴ 100	105
University of Denver School of Law, Denver, Colo.	—	—	—	—	—	—	—	—	—	—	119
Westminster Law School, Denver, Colo.	34	25	39	—	—	23	8	—	—	129	120
Connecticut											
Yale Law School, New Haven, Conn.	117	137	105	—	11	45	—	—	150	1514	408
District of Columbia											
Catholic University of America Law School, Washington, D. C.	2	13	—	—	2	—	—	—	—	17	52

¹ Less duplications.² New school—classes not yet complete.³ Four-year curriculum being discontinued.⁴ There are 276 regular students enrolled in the Law School.⁵ Does not include summer school students.

SCHOOL	1st Year.	2d Year.	3d Year.	4th Year.	Graduate.	From Other Departments.	Special.	Unclassified.	Summer School.	Total 1925.	Total 1924.
District of Columbia—(Cont'd).											
George Washington University Law School, Washington, D. C.	284	208	216	—	38	—	47	—	—	793	—
Howard University Law School, Washington, D. C.	24	13	35	—	1	—	—	15	—	88	99
National University Law School, Washington, D. C.	330	220	193	655	—	—	—	—	—	798	725
Y. M. C. A. Law School, Washington, D. C.	—	—	—	—	—	—	—	—	—	—	100
Washington College of Law, Washington, D. C.	—	—	—	—	—	—	—	—	—	—	163
Knights of Columbus Evening School, Washington, D. C.	23	47	30	—	—	—	—	—	—	100	—
Florida											
John B. Stetson University Law School, DeLand, Fla.	—	—	—	—	—	—	—	—	—	—	82
University of Florida Law School, Gainesville, Fla.	69	70	36	—	—	5	7	—	—	187	200
Georgia											
University of Georgia Law School, Athens, Ga. ...	—	—	—	—	—	—	—	—	—	—	120
Lamar School of Law, Emory University, Emory, Ga.	25	16	21	—	—	—	1	—	16	106	63
Mercer University Law School, Macon, Ga.	35	27	14	—	—	—	—	—	—	76	96
Idaho											
University of Idaho Law School, Moscow, Idaho..	15	18	7	—	—	17	4	—	—	61	71
Illinois											
College of Law, Illinois Wesleyan University, Bloomington, Ill.	—	—	—	—	—	—	—	—	—	—	101
Chicago Kent College of Law, Chicago, Ill.	—	—	—	—	—	—	—	—	—	—	1086
De Paul University Law School, Chicago, Ill. ...	189	159	70	66	10	—	10	—	201	1504	427
John Marshall Law School, Chicago, Ill.	56	64	72	32	—	44	7	—	—	275	313
Loyola University Law School, Chicago, Ill. ...	31	40	58	48	34	—	1	—	15	287	211
Evening School	22	23	11	—	—	—	4	—	—		
Day School	—	—	—	—	—	—	—	—	—	—	—
Northwestern University Law School, Chicago, Ill.	65	73	51	22	2	1	6	—	101	1220	218
University of Chicago Law School, Chicago, Ill. ...	208	133	102	—	6	—	2	—	—	451	454
University of Illinois Law School, Urbana, Ill.	131	84	44	7	—	15	—	8	43	1302	254
Indiana											
Indiana University School of Law, Bloomington, Ind.	48	25	26	—	1	20	3	—	83	206	220
Tri-State College of Law, Angola, Ind.	19	7	—	—	—	—	—	—	7	33	—
Law Department, Central Normal College, Danville, Ind.	8	—	2	—	—	—	—	—	—	10	10

* Less duplications.

* Also includes post graduate students.

SCHOOL	1st Year.	2d Year.	3d Year.	4th Year.	Graduate.	From Other Departments.	Special.	Unclassified.	Summer School.	Total 1925.	Total 1924.
Indiana—(Cont'd).											
Benjamin Harrison Law School, Indianapolis, Ind.	90	45	—	—	—	—	—	—	—	135	117
Indiana Law School, Indianapolis, Ind.	—	—	—	—	—	—	—	—	—	—	96
University of Notre Dame Law School, Notre Dame, Ind.	45	85	60	—	—	—	5	—	35	230	271
Iowa											
Drake University Law School, Des Moines, Iowa.	39	26	23	—	—	—	3	—	—	91	108
Iowa State University Law School, Iowa City, Iowa.	100	66	55	—	—	—	1	—	51	1236	202
Kansas											
University of Kansas Law School, Lawrence, Kan.	55	36	29	—	—	7	—	—	29	1130	132
Washburn College School of Law, Topeka, Kan. . .	30	35	18	—	—	6	—	—	18	191	83
Kentucky											
University of Kentucky College of Law, Lexington, Ky.	44	23	16	—	—	21	3	—	28	1118	109
Central Law School, Simmons University, Louisville, Ky.	—	—	—	—	—	—	—	—	—	—	16
Jefferson School of Law, Louisville, Ky.	98	60	—	—	—	—	1	—	—	159	—
University of Louisville, Law Department, Louisville, Ky.	—	—	—	—	—	—	—	—	—	—	51
Louisiana											
Louisiana State University Law School, Baton Rouge, La.	36	26	13	—	—	6	—	—	—	175	—
Loyola University Law School, New Orleans, La.	97	90	60	—	—	—	12	—	—	259	—
Tulane University Law School, New Orleans, La.	20	39	20	—	—	—	—	7	—	86	96
Maryland											
University of Maryland Law School, Baltimore, Md.	71	—	—	—	—	—	—	—	}	603	547
Day School	201	149	155	—	—	—	—	27			
Evening School											
Massachusetts											
Boston University Law School, Boston, Mass. . .	119	246	205	—	22	—	19	—	—	611	754
Northeastern Univ. School of Law, Boston, Mass. . .	415	344	256	162	—	—	—	—	—	11145	1024
Springfield Division, Springfield, Mass.	57	38	23	9	—	—	5	—	—	132	102
Worcester Division, Worcester, Mass.	80	26	18	14	—	—	4	—	—	142	120
Providence Division, Providence, R. I.	40	21	14	10	—	—	3	—	—	88	81
Portia Law School, Boston, Mass.	119	109	81	73	—	—	19	—	69	1402	351

SCHOOL	1st Year.	2d Year.	3d Year.	4th Year.	Graduate.	From Other Departments.	Special.	Unclassified.	Summer School.	Total 1923.	Total 1924.
Massachusetts—(Cont'd).											
Suffolk Law School, Boston, Mass.	1050	540	315	240	—	—	—	—	—	2145	1940
Harvard University Law School, Cambridge, Mass.	571	347	314	—	29	—	27	31	—	1319	1202
Michigan											
University of Michigan Law School, Ann Arbor, Mich.	235	173	145	5	—	6	2	2	149	1640	610
University of Detroit Law School, Detroit, Mich. ...	65	77	70	—	—	—	5	—	—	217	267
Minnesota											
Minnesota College of Law, Minneapolis, Minn.	83	95	94	—	—	—	—	—	—	272	354
Northwestern College of Law, Minneapolis, Minn.	35	25	35	44	—	45	—	—	—	184	180
Minneapolis College of Law, Minneapolis, Minn.	30	—	—	—	—	—	—	—	—	30	—
University of Minnesota Law School, Minneapolis, Minn.	115	93	74	—	—	2	17	—	51	1320	279
St. Paul College of Law, St. Paul, Minn.	91	65	77	52	—	—	29	—	—	1285	340
Mississippi											
University of Mississippi Law School, University, Miss.	32	30	27	—	—	—	—	—	—	89	109
Missouri											
University of Missouri Law School, Columbia, Mo.	52	32	28	—	—	—	4	—	—	1112	105
Kansas City School of Law, Kansas City, Mo.	190	158	160	135	—	—	2	—	—	645	715
Y. M. C. A. Law School, St. Joseph, Mo.	30	26	17	4	—	—	—	—	—	77	80
Benton College of Law, St. Louis, Mo.	33	22	36	33	7	67	3	—	60	261	146
City College of Law & Finance, St. Louis, Mo. ...	—	—	—	—	—	—	—	—	—	—	180
Missouri School of Accountancy & Law, St. Louis, Mo.	46	28	32	8	—	—	—	—	—	114	—
St. Louis University Institute of Law, St. Louis, Mo.	—	—	—	—	—	—	—	—	—	—	212
Washington University Law School, St. Louis, Mo.	68	61	44	—	—	3	17	—	30	1201	153
Montana											
University of Montana Law School, Missoula, Mont.	23	10	16	—	—	7	—	—	7	157	50
Nebraska											
University of Nebraska Law School, Lincoln, Neb.	72	53	58	—	—	11	2	—	57	1193	191
Creighton University Law School, Omaha, Neb. ...	75	49	39	—	—	—	2	—	—	165	180
University of Omaha School of Law, Omaha, Neb.	42	35	18	13	—	—	7	—	—	115	97

* Less duplications.

* New school—classes not yet complete.

SCHOOL	1st Year.	2d Year.	3d Year.	4th Year.	Graduate.	From Other Departments.	Special.	Unclassified.	Summer School.	Total 1925.	Total 1924.
New Jersey											
New Jersey Law School, Newark, N. J.	841	514	259	—	1	—	121	—	—	1736	1415
New York											
Albany Law School, Albany, N. Y.	106	102	90	—	—	—	—	—	—	298	322
Brooklyn Law School, Brooklyn, N. Y.	645	802	670	—	49	—	4	—	—	2170	2213
St. John's College School of Law, Brooklyn, N. Y.	800	—	—	—	—	—	—	—	—	800	—
Buffalo Law School, Buffalo, N. Y.	74	116	91	—	—	—	—	—	—	281	365
Cornell Law School, Ithaca, N. Y.	74	55	55	—	—	11	3	—	122	320	190
Columbia University Law School, New York City	338	196	171	—	7	—	9	—	241	1835	655
Fordham University School of Law, New York City.	563	433	430	—	—	—	25	—	—	1451	1480
New York Law School, New York City.	408	373	367	—	—	—	—	—	—	1148	1106
New York University Law School, New York City..	800	540	548	—	48	—	5	—	—	1941	1749
Syracuse University Law School, Syracuse, N. Y.	65	55	35	—	—	2	6	—	—	1155	141
North Carolina											
University of North Carolina Law School, Chapel Hill, N. C.	25	37	12	—	—	—	8	—	24	106	103
Duke University Law School, Durham, N. C. .	13	8	—	—	—	—	—	—	—	21	24
Judge Pell's Law Class, Raleigh, N. C.	—	57	—	—	—	—	—	—	—	57	115
Wake Forest College Department of Law, Wake Forest, N. C.	30	42	40	14	1	50	31	—	51	1248	136
Wilmington Law School, Inc., Wilmington, N. C.	5	5	—	—	—	—	—	—	—	10	15
North Dakota											
University of North Dakota Law School, Grand Forks, N. D.	27	20	18	—	—	—	4	—	—	165	68
Ohio											
Ohio Northern University College of Law, Ada, Ohio.	56	70	77	—	—	—	—	—	—	203	220
Akron Law School, Akron, Ohio.	50	30	12	28	2	—	—	—	—	122	108
College of Law, University of Cincinnati, Cincinnati, Ohio.	46	28	20	—	—	—	1	—	—	95	56
Y. M. C. A. Night Law School, Cincinnati, Ohio.	82	55	36	34	—	—	4	—	—	1207	213
St. Xavier College Law School, Cincinnati, Ohio	—	—	—	—	—	—	—	—	—	—	80
Cleveland Law School, Cleveland, Ohio.	200	125	110	135	—	—	—	—	—	570	600
John Marshall Law School, Cleveland, Ohio.	—	—	—	—	—	—	—	—	—	—	452
Lake Erie School of Law, Cleveland, Ohio.	—	—	—	—	—	—	—	—	—	—	129

¹ Less duplications.² New school—classes not yet complete.³ Course covers twelve months in each year.⁴ Two-year course. New students admitted every other year.

SCHOOL	1st Year.	2d Year.	3d Year.	4th Year.	Graduate.	From Other Departments.	Special.	Unclassified.	Summer School.	Total 1923.	Total 1924.
Ohio—(Cont'd).											
Western Reserve University Law School, Cleveland, Ohio.	101	75	74	—	—	—	7	—	—	257	240
Ohio State University College of Law, Columbus, Ohio.	136	104	83	—	2	—	2	—	—	1325	344
Columbus College of Law, Columbus, Ohio.	48	49	32	16	—	—	10	—	7	162	65
University of Dayton College of Law, Dayton, Ohio.	—	—	—	—	—	—	—	—	—	—	57
² Newark Law Class, Newark, Ohio.	14	—	—	—	—	—	—	—	—	14	—
Youngstown Association School of Law, Youngstown, Ohio.	—	—	—	—	—	—	—	—	—	—	111
Oklahoma											
University of Oklahoma College of Law, Norman, Okl.	118	75	38	—	—	—	—	—	—	231	—
University of Tulsa College of Law, Tulsa, Okl.	25	14	15	—	—	—	4	—	—	154	38
Oregon											
University of Oregon Law School, Eugene, Or.	26	23	16	—	—	—	2	—	—	67	68
Northwestern College of Law, Portland, Or.	55	40	22	15	—	—	3	—	—	135	—
Willamette University College of Law, Salem, Or.	22	16	11	—	—	—	—	—	—	49	44
Pennsylvania											
Dickinson School of Law, Carlisle, Pa.	141	91	64	—	—	32	7	—	—	335	309
Temple University Law School, Philadelphia, Pa.	—	—	—	—	—	—	—	—	—	—	349
University of Pennsylvania Law School, Philadelphia, Pa.	153	123	62	—	—	—	5	1	—	344	315
Duquesne University Law School, Pittsburgh, Pa.	—	—	—	—	—	—	—	—	—	—	174
Pittsburgh Law School, Pittsburgh, Pa.	88	70	47	—	3	—	5	—	—	213	203
Rhode Island											
Northeastern University, Providence Division, see under Massachusetts.											
South Carolina											
University of South Carolina Law School, Columbia, S. C.	24	32	31	—	—	5	5	—	—	97	147
Furman University College of Law, Greenville, S. C.	6	11	5	—	—	—	—	—	—	22	—
South Dakota											
University of South Dakota Law School, Vermillion, S. D.	31	34	28	—	—	—	3	—	—	96	101
Tennessee											
Chattanooga Law School, Chattanooga, Tenn.	35	23	17	—	1	—	2	—	—	78	83
University of Tennessee Law School, Knoxville, Tenn.	—	—	—	—	—	—	—	—	—	—	67

¹ Less duplications.² New school—classes not yet complete.

SCHOOL	1st Year.	2d Year.	3d Year.	4th Year.	Graduate.	From Other Departments.	Special.	Unclassified.	Summer School.	Total 1925.	Total 1924.
Tennessee—(Cont'd).											
Cumberland University Law School, Lebanon, Tenn.	—	—	—	—	—	—	—	—	—	—	244
University of Memphis Law School, Memphis, Tenn.	—	—	—	—	—	—	—	—	—	—	130
Vanderbilt University Law School, Nashville, Tenn.	48	43	45	—	—	—	16	—	65	1182	194
John Randolph Neal College of Law, Knoxville, Tenn.	30	12	2	—	—	—	—	—	—	44	—
Texas											
University of Texas Law School, Austin, Tex. ...	93	115	88	—	—	12	21	—	158	1466	—
Jefferson School of Law, Dallas, Tex.	37	28	16	—	—	—	—	—	—	81	63
South Texas School of Law, Houston, Tex.	33	15	12	—	—	—	—	—	—	60	59
Southern Methodist University Law School, Dallas, Tex.	24	—	—	—	—	—	—	—	—	24	—
Y. M. C. A. Law School, Dallas, Tex.	18	8	6	—	—	—	—	—	—	32	—
Baylor University Law School, Waco, Tex.	29	25	21	—	—	—	—	—	26	101	—
Virginia											
University of Virginia Law School, Charlottesville, Va.	106	76	77	—	—	—	6	—	—	265	226
Washington & Lee University Law School, Lexington, Va.	50	27	16	—	—	—	—	—	—	93	85
Norfolk College Law Department, Norfolk, Va.	14	5	—	—	—	225	—	—	—	244	—
Norfolk Night Law School, Norfolk, Va.	—	—	—	—	—	—	—	—	—	—	38
Virginia Union University Law Department.	—	—	—	—	—	—	—	—	—	—	19
T. C. Williams School of Law, Richmond, Va.	17	19	11	—	—	—	4	—	38	1152	153
Morning Division.....	27	29	21	17	—	—	—	—	—		
Evening Division.....	—	—	—	—	—	—	—	—	—	—	—
College of William and Mary, Williamsburg, Va.	3	2	—	—	—	30	3	—	11	147	—
Washington											
University of Washington Law School, Seattle, Wash.	57	31	37	—	—	—	—	—	36	1134	111
Gonzaga University Law School, Spokane, Wash.	20	11	9	5	—	9	1	—	—	146	58
West Virginia											
University of West Virginia Law School, Morgantown, W. Va.	65	44	26	—	—	5	5	—	—	1135	120
Wisconsin											
University of Wisconsin Law School, Madison, Wis.	118	75	64	—	—	—	—	—	—	257	232

* Less duplications.

* New school—classes not yet complete.

SCHOOL	1st Year.	2d Year.	3d Year.	4th Year.	Graduate.	From Other Departments.	Special.	Unclassified.	Summer School.	Total 1925.	Total 1924.
Wisconsin—(Cont'd).											
Marquette University Law School, Milwaukee, Wis.											
Day	39	82	66	—	—	—	—	—	—	187	240
Evening	—	20	19	—	—	—	—	—	—	39	88
* Milwaukee College of Law, Milwaukee, Wis...	38	—	—	—	—	—	—	—	—	38	—
Wyoming											
University of Wyoming Law School, Laramie, Wyo.	9	10	3	—	—	—	2	—	—	24	25
Canada											
Osgoode Hall Law School, Toronto, Ontario, Canada.	126	67	156	—	—	—	—	—	—	349	—
McGill University, Faculty of Law, Montreal, Canada.	20	12	22	—	—	—	4	—	—	67	62
University of Saskatchewan College of Law, Saskatoon, Sask., Canada.	18	12	10	—	—	—	1	—	—	140	—
	14428	10434	8513	1397	289	1048	727	91	2465	*38311	36701
										† 1347	
										39658	

Total number of schools reporting registration figures 1924—138.
Total number of schools reporting registration figures 1925—143.

¹ Less duplications.

² New school—classes not yet complete.

*Includes 276 students not itemized (Stanford University).

† Duplications.

Notes and Personals

On November 14th, Stockton Hall, the new home of the *George Washington University Law School* was dedicated with appropriate ceremonies. President William Mathew Lewis of the University presided. The following is a list of the speakers:

(1) On behalf of the alumni—Mr. Edward Stafford, President of the Columbian George Washington University Law School Association.

(2) On behalf of the faculty—Colonel Walter C. Clephane.

(3) On behalf of the board of trustees—An address by a member of the board, who presented to the President the keys of the building.

(4) On behalf of the university—By the President, who accepted the keys and who delivered them to the dean of the law school.

Acceptance of these keys by the dean of the law school.

The dedicatory address was by Dean Roscoe Pound of the Harvard Law School.

Basil H. Pollitt, who was graduated from the George Washington University Law School with distinction in 1922, has been appointed Associate Professor of Law. Professor Pollitt gives the course on Sales, Agency, Common Law Actions and Contracts. He received his A.B. degree from the University of Cincinnati, and has recently been engaged in the practice of law in New York.

Professor Hector G. Spaulding, of the law faculty, made a business trip to France after the closing of the summer session and was abroad for four weeks.

Miss Helen C. Newman, Law, 1925, has

been appointed Secretary of the Law School, following the resignation of Joseph A. Jordan.

In spite of the two-year college entrance requirement, 793 students registered in the Law School this fall. This is a slight falling off from last year's fall registration. The loss, however, was only 9 per cent. instead of 20 per cent., as was expected.

During the summer and fall months, a committee composed of prominent members of the law alumni has been carrying on an active campaign to raise funds to help equip and decorate the new Law School library as a memorial to William A. Maury, who served for 29 years on the law faculty. The committee is in communication with law alumni all over the country, as well as with friends of the Law School and of the late Professor Maury.

The Maury Memorial Law Library is named after the man whose record for length of service in the Law School is unequalled. At the same time that he was teaching law, Professor Maury also held high positions in the outside world. But, in spite of the many affairs which claimed his attention, his chief interest lay in the Law School, where he endeared himself to hundreds of students, many of whom are now successful practitioners.



The enrollment registration figures at the *School of Law of Columbia University* show a large increase in the total number of students for the present semester and an especially large addition to the numbers in the first year class.

All of the former members of the faculty are continuing their work, and there has been added to the staff Professor Karl Nickerson Llewellyn, formerly of the Faculty of Law of Yale University. Mr. Llewellyn is giving the courses in Mortgages and Suretyship as well as a college course entitled "Law in Society." John H. Johnson, a former graduate of the school, who has been studying in England, in the Chambers of Sir Benjamin L. Cherry of Lincoln's Inn, conveying counsel to the Chancery Court and Chief Draughtsman of the new Law of Property Acts, has been appointed lecturer in law and is giving the courses in Real and Personal Property III and Trusts. William Orville Douglas and Carrol Meter Shanks have been made Lecturers in Law, the former giving the course in Damages and the latter assisting in the Seminar in the Law of Business Organization. Julius Goebel, Jr., has been appointed as Associate in Law and is advising the candidates for the graduate degrees in the writing of their dissertations.



Stanford University Law School opens the academic year 1925-26 without any changes

in its faculty except that Mr. Stanley Morrison, who was last year a Lecturer devoting half time to teaching, becomes this year an Associate Professor giving his full time.

The school is now requiring an A. B. degree of all applicants for admission except those who had matriculated in Stanford University prior to November 1, 1924. In spite of this restriction the attendance this fall is slightly higher than a year ago.

During the past summer a very successful session was conducted, the program and instructors being as follows:

Torts, Professor Noel T. Dowling, University of Columbia Law School.
 Personal Property, Assistant Professor Arthur H. Kent, now of the University of Oregon Law School.
 Public Utilities, Professor Arthur M. Cathcart, of the Stanford faculty.
 Quasi-Contracts, Professor George E. Osborne, of the Stanford faculty.
 Insurance, Professor Edward H. Decker, University of Oregon Law School.
 Rights in the Land of Another, Professor Marion R. Kirkwood, Dean of the Stanford faculty.
 Trusts, Professor Austin W. Scott, Harvard University Law School.
 Partnership, Professor William B. Owens, of the Stanford faculty.
 Suretyship, Professor Austin W. Scott.
 Evidence A, Professor Albert B. Cox, Tulane University Law School.

Professor Joseph W. Bingham taught the course in Conflict of Laws at the School of Jurisprudence at the University of California during the summer. During September Mr. Bingham was in attendance at the meeting of the advisers on Conflict of Laws of the American Law Institute held at Northeast Harbor, Maine.



The *Yale University School of Law* opened the college year 1925-26 with an increased enrollment of students and with an increase likewise in the faculty. The registration includes 11 graduate law students and 401 undergraduate law students, including 40 Yale College seniors taking full law work as they are required to do under the rules, and 8 students from the Graduate School taking law courses—or a total of 420 under instruction. The figures for 1924-25 were 403 and for 1923-24 were 343.

The number of those giving instruction in the school is now eighteen. The addition to the faculty comprises two visiting professors, two teaching fellows, and two Yale Law School graduates who have returned as members of the teaching force. The experiment of the appointment of teaching fellows—men who do graduate research work and at the same time conduct one or more courses—was inaugurated last year with the appointment of John Fletcher Caskey, one of the brilliant law school graduates, and was so successful that it is hoped to continue it as a permanent part of our program. The teach-

ing fellows this year are: Professor Thomas E. Atkinson, a graduate of the University of Michigan Law School and a professor of law at the University of North Dakota, who will conduct the courses in Brief Making and in Common Law Pleading; and Professor Merrill I. Schnebly, a graduate of the University of Chicago Law School and a professor of law at Indiana University, who will conduct the courses in Persons and Wills.

Professor Young B. Smith, of Columbia University Law School, and Professor Kenneth C. Sears, of the University of Missouri Law School, are visiting professors, the former giving the course in Court Practice I and the latter the courses in Evidence and Agency.

Mr. Roscoe B. Turner, an honor graduate of the Yale Law School in the class of 1920, has returned from general practice in New York City as an assistant professor to give the courses in Negotiable Instruments and Sales.

Mr. Robert M. Hutchins, an honor graduate of the Law School in 1925, and Secretary of the University, is appointed lecturer, to give the courses in Public Service Law and Trade Regulation.

Professor E. M. Morgan has returned to his alma mater (Harvard), Professor Karl N. Llewellyn has joined the Columbia Law faculty, and Mr. D. D. Morgan and Mr. John F. Caskey have withdrawn from teaching to go into practice.

Among the interesting developments in new courses may be mentioned a course in the Law of Credit Transactions given by Professor Sturges from mimeographed material prepared by him and designed to study the function of credit in the modern business world.

Professor Cook, who conducts his course on Jurisprudence for advanced students, again gives his course on Legal Method to the first year class from mimeographed material prepared by him. This course is designed to show the beginning law student how lawyers think.

During the last two years the classes in the school have been so large that it has been necessary to divide certain of them into sections and to hold certain classes in other college buildings than the Law School. The necessity for a new building becomes more pressing each year. It is now hoped, however, that work on the proposed new building may be started shortly.

The summer school again completed a most successful summer. The registration this summer was for the two terms 135 and 136, as compared to 124 and 115 last year. This was the second year of graduate instruction in the summer, and there were present among the graduate law students ten experienced teachers of law from various law schools in the country.

The *Law School of Harvard University* reports these items:

Prof. Eugene Wambaugh, Professor of Law since 1892, and Langdell Professor of Law since 1903, has resigned and has been appointed Langdell Professor of Law Emeritus.

Prof. Francis Hermann Bohlen, LL.B., who has been Professor of Law at the University of Pennsylvania since 1902, Prof. Thomas Reed Powell, Ph.D., LL.B., formerly Professor of Law at Columbia, and Prof. Edmund Morris Morgan, A.M., LL.B., formerly Professor of Law at Yale, have been added to the Law School faculty.

Assistant Professor Calvert Magruder, Assistant Professor since 1920, has been appointed Professor of Law.

Mr. James Bradley Thayer, A.B., LL.B. S.J.D., has been appointed Instructor in Comparative Law, and Mr. Robert Guthrie Page, A.B., LL.B., has been appointed Instructor in Law.

Mr. Guy Harold Holliday, A.B., LL.B., has been appointed Secretary of the Law School, succeeding Richard Ames, who was secretary of the School since 1909, resigned.

Mr. Charles Shirley Potts, A.M., LL.B., has been awarded the Ezra Ripley Thayer teaching fellowship.

1,319 students have enrolled in the Law School for the Academic year 1925-26. Of these 29 are taking graduate law courses leading to the degrees of LL.M. and S.J.D.



Professor Kenneth C. Sears, of the *University of Missouri Law School*, Columbia, Missouri, is on leave of absence this year. He is a visiting professor at the Yale Law School, giving courses in Evidence and Agency.

Mr. Robert L. Howard, who has an A.B., A.M., and LL.B., from the University of Missouri, is giving part of Mr. Sears' work this year.

A course in Legal Ethics has been added and is required of all first year students. It is being given by Mr. O. M. Barnett, the University Attorney. It is given three times a week the first term.



Dean George G. Bogert of the Cornell University College of Law is acting Professor in the *University of Chicago Law School* for the present year.

The work of the Summer Quarter, 1925, in the University of Chicago Law School, was assisted by Professor Charles K. Burdick and Professor Lyman P. Wilson of the Cornell University College of Law.



De Paul University College of Law has added, this year, two new full-time members to its faculty, namely: Dennis F. Scanlan,

A.M., B.L., LL.M., and John J. Meehan, LL.B. Mr. Scanlan has the degree of A. M. from the University of Oklahoma, B.L. and LL.B. from the University of Wisconsin, and LL.M. from De Paul University Law School. Mr. Scanlan has had long experience in administrative and executive school service. At one time he was regent of the University of the State of Oklahoma. Mr. John J. Meehan has the LL.B. degree from the Syracuse University and brings to the Law School some eighteen or twenty years of successful experience in the practice of law. Both Mr. Scanlan and Mr. Meehan carry the title of Instructor in Law.

Since this time last year the day and evening divisions of De Paul University College of Law have been admitted to the Association of American Law Schools and also have been classed "A" by the American Bar Association.

Professor William F. Clarke, who has been Secretary of the Law School for the past seven years, has been appointed to the Deanship of the College of Law beginning with the school year 1925-26, and Professor Harry D. Taft, who has been a full-time professor in the College of Law for the past eight years, has been made Assistant Dean of the College of Law.



The *University of Illinois College of Law* reports that there are no faculty changes this year. Class work began on the 24th of September. The enrollment shows a substantial increase. An examination into the records has developed the fact that there are represented in the enrollment of the school forty-three colleges and universities.

Following out a policy partially instituted the preceding year, all first year classes have been sectionized excepting the course in Common Law Actions. This has necessitated considerable reorganization and reassignment of courses. The course in Personal Property has been assigned to Professor William E. Britton. Professor Goble has taken over the subject of Insurance, formerly taught by Professor Britton. Private Corporations is taught this year by Professor Elliott Cheatham, and Municipal Corporations has been assigned to Dean Harno. Legal Bibliography, formerly listed among the courses of the first year, is this year given by Assistant Professor Weisiger in the second year. The course in Equity has been reorganized. Professor Philbrick continues to teach the first part of the course. Equity II, including reformation, rescission and restitution at law and in equity, has been assigned to Professor Cheatham. A committee of the faculty is at work analyzing the whole law curriculum, and various additional changes will in all probability be inaugurated in another year.

The school is crowded in class-room and

library facilities. Both faculty and students look forward to transferring to their new quarters, which will provide amply for the present enrollment as well as any ordinary increases which may occur.



Charles M. Hepburn, Professor of Law in the *Indiana University School of Law* since 1903 and Dean since 1918, has resigned as Dean to accept appointment as Research Professor of Law. Professor Hepburn will devote a part of his time to research and writing on procedure and to the work of the Torts Section of the American Law Institute, of which he is a member.

Paul V. McNutt, who was appointed Assistant Professor of Law in 1917 and Professor of Law in 1919, has been appointed Dean. Professor McNutt is a graduate of Indiana University and Harvard Law School and is a member of the firm of McNutt & McNutt, Martinsville, Indiana. He served in the Army during the war and was promoted through the various grades to Lieutenant Colonel of Field Artillery in command of the Second Brigade F. A. R. D. He now holds the rank of Colonel in the Reserve Corps and is Commanding Officer of the 326th F. A. Professor McNutt is engaged in the preparation of a case-book on Taxation, which is to be published by the West Publishing Company.

Professor Merrill I. Schnebly is on leave of absence for the scholastic year 1925-26 and has been appointed Teaching Fellow in the Yale Law School. He is doing graduate work and giving the courses on Persons and Wills.

Paul Lombard Sayre, A.B. (Harvard), J.D. (University of Chicago), S.J.D. (Harvard), formerly a member of the active bar of Chicago, has been appointed Associate Professor of Law.

Miss Rowena U. Compton, LL.B. Washington School of Law, former Law Librarian Bureau of Internal Revenue, has been appointed Law Librarian.

A course on Administrative Law has been added to the curriculum and is being taught by Professor Sayre.

The Moot Courts have been supplanted by a course in Practice offered by Professor James J. Robinson, formerly Prosecuting Attorney 66th Judicial Circuit of Indiana.

A course in Anglo-American Law, designed for first year students, is being offered by Professor Hugh E. Willis.

The enrollment in the Law School is practically the same as that of last year. The enrollment of pre-law students has more than doubled.



Professor Frank A. Erwin, after more than thirty years as a member of the faculty of the *School of Law of New York University*, has retired. Professor Erwin has won the

affection of many generations of law students. His retirement is greatly regretted.

The following new courses have been added to the curriculum of post graduate work: Corporation Law Applied, one hour, given by Mr. Frank White, author of "White on Corporations"; Administrative Law, one hour, given by Dean Sommer; Municipal Corporations, one hour, given by Judge Wm. Clark of the United States District Court of New Jersey; Bankruptcy, one hour, given by Professor Russell.

The following additions to the Faculty have been made: Mr. Frank White, author of "White on Corporations" and for many years a member of the faculty of the Albany Law School, is giving a course this year on Corporation Law Applied. Judge Wm. Clark of the United States District Court of New Jersey will give a course on Municipal Corporations. Professor George L. Clark, A.B. (Kenyon), S.J.D. (Harvard), is giving courses in Contracts and Torts. Professor Allison Reppy of the New Jersey Law School is giving a course on Property in the first year. Thomas J. Sefton, J.L.B. (New York Law School), is giving a course in Torts. Godfrey E. Urdike, M.A. (Columbia), J.D. (N. Y. University), is giving courses in Crimes and Persons.



The *College of Law of Cornell University* sends in the following report:

Dean George Gleason Bogert will be on leave of absence for the academic year 1925-26. He is teaching at the University of Chicago Law School during this period. During the absence of Dean Bogert, Professor Charles Kellogg Burdick will be the Acting Dean.

Herbert D. Laube, formerly of the St. Louis University Law School, has been appointed Assistant Professor in the College of Law during the absence of Dean Bogert. He will take care of Dean Bogert's courses. Professor Laube holds an A.B. degree from the University of Wisconsin; A.M. from University of Michigan. He is a graduate of the Columbia University Law School and holds the S.J.D. degree from the Harvard Law School.

Maitre Pierre Le Paulle, of the bar of Paris, France, will deliver a course of lectures in the autumn of 1925, at Cornell University, on the Jacob H. Schiff Foundation. M. Le Paulle will compare and contrast the English and American Common Law system and the Civil Law system of Continental Europe in such fields as those of contractual obligation, tort liability, family relations and inheritance, and property rights. The course will run from the opening of the University until the Christmas recess. M. Le Paulle holds a French doctorate in law, and has taken the S.J.D. degree at Harvard. He has given instruction at Harvard, and is also a lecturer on English and American Law in the

Paris Faculty of Law. M. Le Paulle, therefore, has a thorough knowledge of both the Common and Civil Law systems. The lectures will be given in English.

The annual meeting of the Cornell Law Association was held in Boardman Hall, Ithaca, New York, on October 10, 1925. Hon. Martin T. Manton, Judge of the United States Circuit Court of Appeals, Second Circuit, delivered the annual address on the subject, "Organization of the Circuit Courts of Appeals."

Beginning with the current academic year, the Cornell University College of Law has increased the requirements for admission. Applicants for admission must now present evidence of the receipt of a bachelor's degree from an approved college or university. Students in the College of Arts and Sciences of Cornell University are allowed, however, in their senior year to elect the first year of law course and in this way to obtain the degrees of Bachelor of Arts and Bachelor of Laws in six years.



The following members have been added to the faculty of the *University of Texas School of Law*: John Edward Hallen, formerly of the University of Kansas Law School; George Wilfred Stumberg, formerly of the University of Louisiana School of Law; Robert Weldon Stayton, of the Texas Commission of Appeals; A. W. Walker, Jr., of Dallas, Texas; Frank Brittin Clayton, of El Paso, Texas. Two new courses, Conveyancing and Office Practice, and Equity II and Quasi-Contracts, have been added to the curriculum.



The *Law School of the Southern Methodist University* at Dallas, Texas, was opened at the beginning of the long session 1925-26. It has been opened as a standard Law School complying with the requirements of the Association of American Law Schools as far as possible at its opening. Junior standing in the College of Arts and Sciences is the minimum requirement for candidates for degree. The college work for candidates for degree must include at least one year's work in English, history, economics and government, but a student may be admitted as candidate for degree who has not taken all of the prescribed courses, on condition that he remove the conditions before the beginning of the senior year. The rules of the Association as to number and qualification of special students are being enforced. During this year nothing but first year courses are offered, these courses being Contracts, Criminal Law during the first semester, Agency during the second semester, Common Law Pleading, Property I, and Legal Bibliography during the first semester one-hour a

week. Contracts, Property I, Torts and Common Law Pleading are long-session courses. All of this work is prescribed. The passing grade is sixty.

Twenty-four students have been registered for the first year work. The law library now contains 2,500 volumes of Reports, Digests, Encyclopedias, Statutes and texts, all of which have been carefully selected. The library is being added to and by the beginning of the second year will have in excess of 5,000 volumes, all carefully selected. All are in the library of the Law School, and in charge of the Law School librarian.

Joseph E. Cockrell, M.A., LL.B., LL.D., is the acting dean. Mr. Cockrell is a practicing lawyer in Dallas and is also chairman of the Board of Trustees of the University. He does no class-room work. The full-time professors are W. A. Rhea, LL.B., LL.M.; and R. B. Holland, A.B., LL.B. Mr. Rhea was on the faculty of the Law School of the University of Texas for the past six years. Mr. Holland, Assistant Professor of Law, is an honor graduate of the Law School of the University of Texas, receiving his degree in June, 1925. Mr. Rhea has charge of the courses in Contracts, Common Law Pleading, and Property I. Mr. Holland has charge of the courses in Criminal Law, Torts, Legal Bibliography and will have charge of the course in Agency in the second semester.

The requirements for degree are three years of thirty weeks each and credit for seventy-six semester hours. During the present long session the curriculum for the second year will be determined and at least two full-time professors added to the faculty. During the following year the curriculum for the third year will be determined and additional full-time professors added to the faculty. No second year work is being offered during this long session, nor will third year work be offered during the next long session. No degrees will be conferred until the end of the third year of the life of the school. The casebook method of instruction is used in all courses.



The following have become part-time members of the faculty of the *School of Law, Loyola University*, Chicago, Illinois: Mr. Hayes Kennedy, A.B., J.D. (University of Chicago). Mr. Kennedy teaches the subject of Torts. Dr. William C. Woodward, M.D., LL.M., LL.D., Executive Secretary of the Bureau of Legal Medicine and Legislation of the American Medical Association. Dr. Woodward is giving a course in Medical Jurisprudence. Mr. Lawrence W. Spuller, A.B., J.D., LL.M., is giving a course in International Law. Father Terence T. Kane, S.J., is giving a course in Canon Law. The Law School of Loyola University is offering a graduate course in the Evening School this year. The enrollment is 34.

The *Law School of the Louisiana State University*, at Baton Rouge, has moved into its new quarters in the building provided for it on the site of the new University, south of Baton Rouge.

Mr. G. W. Stumberg has left the Law School to become a member of the law faculty of the University of Texas.

The new members of the faculty are Mr. Roy C. Gore, A.B., University of Illinois, 1921, LL.B., University of Illinois, 1922; Mr. Odis H. Burns, A.B., University of Kansas, 1916. Mr. Burns took his law course at Leland Stanford University, completing the work there in the summer of 1925. He will receive his J.D. degree on the next occasion of awarding degrees, which will be next spring. Mr. Joseph A. Loret, LL.B., Louisiana State University, 1914, a member of the law firm of Taylor, Porter, Loret & Brooks, of Baton Rouge, will give the course in the Louisiana Code of Practice heretofore given by Dean R. L. Tullis. The subjects taught by Mr. Gore are Criminal Law and Procedure, Legal Bibliography, Real Property, Equity, Partnership, Conflict of Laws. He also conducts Criminal Moot Court. Mr. Burns teaches Contracts, Agency, Torts, Introduction to the Study of the Common Law, the Law of Public Service, Private Corporations.



Mr. Chester B. McLaughlin, Jr., of New York City, son of Judge McLaughlin of the New York Court of Appeals, has joined the faculty of *New Jersey Law School* to teach Personal Property.

A course in Quasi-Contracts under Professor Lewis Tyree has been added to the Law School curriculum this year.

Professor Lewis Tyree of the Law School faculty has just completed a casebook, "Cases on the Law of Contracts," which is being used in the Contracts course this year.

Another casebook, "Cases on Wills," is being prepared by Professor Allison Reppy, also of the Law School faculty, for use the second semester.

Beginning September, 1927, New Jersey Law School will require at least one year of college work for entrance into the school and in September, 1929, this requirement will be raised to two years. To accommodate those who cannot obtain this work elsewhere, a two-year college course will be arranged under the auspices of the Law School. A new building has been added to the plant for this purpose and the first session will begin in February, 1927.



The faculty of the *University of Idaho College of Law* has been enlarged by the addition of Dr. Maurice H. Merrill, who comes as Associate Professor of Law. Dr. Merrill was graduated A.B. and LL.B. from the University of Oklahoma with high honors in

both courses. He taught Government in the University of Oklahoma and after several years' practice at Tulsa, Oklahoma, he took graduate work in Harvard Law School, receiving the degree of S.J.D. in June, 1925. He has been assigned the courses in Trusts, Partnership, Torts and Agency, including Workmen's Compensation.

A course in Professional Ethics has been added to the curriculum, which will be taught by Professor S. A. Harris. Dean Davis will offer the course in Conflict of Laws, heretofore given by Professor Philip Mecham, now at the University of Kansas.



The *University of Pennsylvania Law School* sends in the following report: The *University of Pennsylvania Law Review* will appear monthly instead of quarterly, as heretofore.

Mr. Carl William Funk and Mr. Harry W. Steinbrook, honor men of the class of 1925, have been appointed to Gowen Memorial Fellowships for graduate study. These fellowships carry an annual stipend of \$2,000. Mr. Funk will also teach the subject of Insurance as an elective to a group of third-year students.

The eight undergraduate law clubs have organized a competitive system of Moot Courts for second-year men.

A notable gift of a bronze bust of Abraham Lincoln as a young lawyer, by the sculptor Hermon A. MacNell, has been presented to the Law School by William H. Allen, Esq., Warren, Pa., of the class of 1889.

Among the auxiliary lectures offered this season were three delivered by Hon. Robert von Moschzisker, Chief Justice of the Supreme Court of Pennsylvania, on "Our Common Law and Federal Jurisprudence."



The *Brooklyn Law School of St. Lawrence University* began its twenty-fourth year with a total enrollment of 2,170 students, the slight decrease from last year's enrollment of 2,213 being due to the advanced entrance requirements. Of the 645 students in the entering class, 225 hold college degrees. The remaining number completed an average of two years and in no case less than one year of college work prior to their entrance to the law school. Sixty-seven colleges and universities are represented in the first-year class.

Hon. Edwin Louis Garvin, Judge of the United States Court for the Eastern District of New York and Professor of Legal Ethics at Brooklyn Law School, has resigned his judgeship to resume the practice of law.

In the spring of 1925, an honorary scholastic organization named the Philonomic Society was organized, to which members of the senior class having an average of 90 per cent., or over may be elected at the discretion of the faculty. Provision has also been

made for the election of those graduates of the law school who would have been eligible for election to membership at the time of their graduation, had the society been in existence at that time.

During the past year, the following books were published by members of the faculty:

Dean William P. Richardson—*Outlines of Bills and Notes*, new edition; *Outlines of Guaranty and Suretyship*, new edition.

Professor Clarence G. Bachrach—*Cases in Equity*.

Professor Edwin W. Cady—*Cases on Insurance*, new edition; *Outlines of Insurance*.

Professor Francis X. Carmody—*Supplement to New York Practice*.

Professor John H. Easterday—*Cases on Real Property*, 3 volumes; *Cases on the Law of Persons and Domestic Relations*.

Professor Allen B. Flouton—*Cases on the Law of Municipal Corporations*.

Professor Charles W. Gerstenberg—*Financial Organization and Management*.

Professor William V. Hagendorn—*Cases on the Law of Guaranty and Suretyship*, new edition; *Cases on Law of Sales*, new edition.

Professor Henry W. Humble—*Cases on the Law of Bills and Notes*.

Professor Thomas P. Peters—*Cases on Criminal Law*, new edition.

Professor Harold Remington—*Elements of Bankruptcy Law for the use of Law Students*.

Professor John H. Schmid—*Cases on the Law of Executors and Administrators*.

Professor George I. Woolley—*Outlines of the Law of Trusts*.

Professor Jay L. Rothschild—*Cases on New York Practice*.

The last-mentioned book has an unusual feature, in that all the cases are keyed to the present New York statute, and all statutory matter and rules appertaining to the subject are contained within the one compilation. Professor Rothschild is the author of a number of monographs on practice subjects.

Professor Allen B. Flouton has in the course of preparation a new text-book on Municipal Corporations, and Professor Donald F. Sealy a casebook on Bailments and Carriers.



The *Law School of the University of Michigan* began the year 1925-26 with an enrollment of 568 students.

Professor Wilgus, who spent the past year abroad, has returned to his duties and is again offering courses in Private Corporations and in Torts. Otherwise the faculty remains as it was last year.

A few changes have been made in the curriculum. The faculty has decided to abandon Code Pleading as a separate course and to give a course in Pleading in the first year, which shall include both Common Law

and Code Pleading. The work in Equity has also been rearranged. There has been added to the required work of the first year a two-hour introductory course, to be supplemented by a three-hour required course the first semester of the second year and a three-hour elective course, to include Quasi-Contracts, to be offered in the second semester of the second year.



The *University of Missouri School of Law* sends in the following report:

Mr. Robert L. Howard, A.B., A.M., LL.B., University of Missouri, teaches Constitutional Law, Evidence and Criminal Law during 1925-26. He is taking part of the work that Mr. Sears had.

Prof. K. C. Sears is on leave of absence this year at Yale. Mr. Sears is teaching Evidence and Agency at Yale.

Mr. O. M. Barnett, the University Attorney, is giving Legal Ethics to first-year students. This is a required course of three hours a week and Costigan's Cases on Legal Ethics is used.



Since the appointment of Mr. Arthur S. Beardsley as Law Librarian of the *University of Washington School of Law* on full time, the increased effectiveness of the library is most apparent. This year Miss Mary Hoard, a former graduate of the Law School, has been put on full time as cataloger. These two, together with three student assistants, comprise the corps in charge of the Law School Library. There were recently added two thousand volumes of American Statute Law and eight hundred volumes of Canadian Statute Law. Also volumes were added completing the Canadian reports. These volumes, added to a careful inventory recently completed, show a total of slightly over forty-six thousand volumes in the Law School Library.

The students enrolled in the Law School for the autumn quarter number one hundred and twenty-five. This represents a slight decrease from last year, explained by a larger percentage of the Pre-Law students taking the combined six-year Liberal Arts and Law Course. Although present requirements permit students to enter the Law School with a two-year Pre-Law Course practically all presently enrolled Pre-Law students are taking or contemplate taking the three-year Pre-Law Course. As the Pre-Law enrollment is the largest in the history of the Law School, an increased enrollment is forecast for the Law School.

Professor Clarke P. Bissett of the Law School has returned from a second trip to England and France during the summer. During his visit in England he was able to secure a number of valuable and rare copies of books for the Law School Library.

The second volume of the *Washington Law*

Review is just off the press. The excellent reception of this publication by the eleven hundred Alumni of the Law School, as well as the lawyers of the Northwest, have assured the continuance and success of this publication.

There are no changes in the faculty of the School of Law. The present faculty consists of John T. Condon, Dean, Harvey Lantz, Ivan W. Goodner, Clarke P. Bissett and Leslie J. Ayer, all full-time professors, and J. Grattan O'Bryan, lecturer. It may be interesting to note that Professor Leslie J. Ayer, the junior member in service on this faculty, is now beginning his eleventh year, while John T. Condon, the senior member in service, is beginning his twenty-seventh year.



The *University of Kansas School of Law* opened the fall semester on September 10th with fifty-five in the first-year class, thirty-six in the second-year class, and twenty-nine in the third-year class. There are nine students from other departments of the University taking part time work. This indicates a substantial increase in the first-year class. Moreover, both the pre-law enrollment in the college of liberal arts and the enrollment in the law school point to a pronounced growth in the number of students seeking the combined arts and law degrees.

Professor John E. Hallen, after four years of unusually successful work in this school, has become a member of the faculty of the University of Texas Law School. He has been succeeded by Associate Professor Philip Mechem, a son of Professor Floyd R. Mechem, of the University of Chicago Law School. Mr. Mechem received his undergraduate training at Harvard, Chicago and Stanford, and his professional training at Stanford, Colorado and Chicago. For two years he was a member of the law faculty at the University of Idaho. Last year he was a teaching fellow and graduate student at the University of Chicago Law School. He will give the courses in Torts, Partnership, Wills and Trusts.

The Kansas chapter of the Order of the Coif was installed at the University last May 18th by Dean John H. Wigmore, of Northwestern University Law School. Chief Justice W. A. Johnston, of the Supreme Court of Kansas, who has distinguished the bench of this state in more than forty years of continuous service as a member of that court, was made an honorary member, and the following students of the senior class were elected to active membership for excellence in scholarship: G. C. Spradling, E. P. Scrivner, and F. A. Wright.



Mr. William M. Simmons, the new Dean of the *Hastings College of Law*, San Francisco, reports the following men as full-time

members of the faculty in addition to himself: Mr. Golden W. Bell, Mr. James A. Bahlentine and Mr. Róbert W. Harrison.



The faculty of the *Law School of the University of Alabama* is the same as last year. The enrollment is also about the same, although the requirements for admission have been advanced. There are something over 140 students in the professional law courses.

It is hoped that construction of the new law building will be started within the year. Another interesting announcement is that the first issue of the new *Law Journal* was announced for publication in November. The *Law Journal* is being published in collaboration with the State Bar Association.



The curriculum of the *School of Law of the University of Arizona* remains unchanged. The only change in the personnel occurs because of the death of Professor Anderson last spring. The University has temporarily filled Professor Anderson's place on the law faculty with the chances that the arrangement may be permanent.

The completion of the new Library Building has been somewhat delayed, which has caused a delay also in the plans for occupying the new quarters in the Law Building. It is hoped that the remodeling of the Law Building will take place next summer and that the school will move into its new quarters in the fall.



The registration in the *University of Minnesota Law School* is 300, a small increase over the preceding year.

For the first time in eight years, there have been no resignations of the full-time members of the faculty. Professor Wilbur H. Cherry, who has been on part time, has given up practice and will devote his entire time to the work of the law school. He will teach Practice and Evidence.

A course in Jurisprudence has been added to the curriculum as an elective in the senior year. Short courses in the subject have been given during the last two summer sessions. Many of the students who took them recommended that the course be offered during the regular academic year. Professor Henry Rottschaefer will have charge of the course.

For the last three years, the law school has required honor points in pre-legal work for admission. The candidate must have obtained an average one letter grade above that required for passing in the college in which he did his pre-legal work. Of the students who enter the College of Science, Literature and the Arts of the University of Minnesota, less than one-third maintain the average required to enter the Law School. The honor point requirement has greatly improved the quality of the entering classes.

As a result, there is less retardation of the work in the law classes and a smaller percentage of failures at the end of the first year.

The school still requires only two years of college work for admission, but nearly 60 per cent. of the entering class this year have a degree or at least three years of college work. The number making the larger preparation has grown rapidly. It was only 17 per cent. in 1921-22.



The *University of Maryland School of Law* has, beginning with the current year, placed its Evening School on a four-year basis and has inaugurated a full-time Day School; the course in the latter covering three years.

Announcement is made in the current catalog of changes in the requirements for entrance. For the scholastic year 1926-27, one year of college work, and for the year 1927-28, two years of college work, will be prerequisite to admission.

Professor Edwin G. W. Ruge, A.B. (Yale 1912), LL.B. (Harvard 1915), has been added to the full-time faculty, and Mr. Robert Dorsey Watkins, Ph.D. (Johns Hopkins), LL.B. (University of Maryland), has been added to the part-time faculty.



The *Law School of the University of North Carolina* has enrolled for the year 1925-26 eighty-four students. This registration falls somewhat short of the number enrolled last year. The reduction seems to be the result of higher entrance requirements, more rigid exclusion of students who did poor work last year, and the growing tendency of students to complete their A.B. work before entering the Law School. The entering class this year is made up of mature men nearly half of whom have three years or more of college training.

The only change on the teaching staff this year is the addition of Mr. R. A. McPheeters, A.M. (Westminster College) LL.B. (University of Missouri), who is teaching the course in Evidence. This provision for handling the course in Evidence was made largely to lighten the load of Professor A. C. McIntosh, who is engaging in legal research.

The Law Clubs, which include in their membership practically all of the student body, are being reorganized under the direction of Professor Albert Coates, who has been the moving spirit in bringing these clubs to their present efficiency. Under the new arrangement, the upper classmen are responsible for framing the cases which will be argued by the first-year men—a plan which makes it possible for all students to take part in the work.

Early in October the first-year class was given an aptitude test. There naturally

was a wide range in the grades, but the class as a whole made a satisfactory showing.

The Summer School covered twelve weeks and was attended by twenty-four students. The following subjects were offered: Personal Property, Legal Liability, Criminal Law, Domestic Relations, Damages, and Taxation. This was the first time courses have been given for credit during the summer months.

Plans are being made to have Mr. N. T. Guernsey, chief counsel of the American Telephone & Telegraph Company and a lecturer in the Yale Law School, give a course of lectures during the winter.



The *College of Law of West Virginia University* opened on September 21st, with a substantially increased enrollment. The vacancy in the faculty, caused by the death of Professor James Russell Trotter on July 5th of this year, has been filled by the appointment of Everett Lewis Dodrill as Instructor in Law. Mr. Dodrill has the degrees of A. B. (1923) and LL.B. (1924) from West Virginia University, and LL.M. (1925) from the Harvard Law School.

A summer term of six weeks was offered this year, the courses being taught by Professors Hardman, Dickinson and Snider. Professor Carlin and Dean Madden spent a considerable part of the summer assisting the West Virginia Revision and Codification Commission, which is engaged in a General Revision of the Statutes of the state.

The West Virginia University Chapter of the Order of the Coif was established in May of this year.



Since the close of the session of 1924-25, the *Law Department of the University of Georgia* has made considerable improvements. An additional full-time professor has been appointed. The faculty now consists of three full-time teachers and two part-time teachers.

The two years of college work as a requirement for entrance went into effect with the beginning of the present autumn term.

The building has been remodeled to afford additional lecture rooms and offices for the professors.

The following is a list of the books purchased during the vacation: The Complete National Reporter System, the American Digest System, the State Reports prior to the Reporter System, and many law treatises.



The *Drake University Law School* opened on September 21st with an enrollment about the same as usual since the two-year requirement went into effect. The first-year class numbered 39, all of whom have met the full two-year requirement, with an increased

number of combined course men. The number who had already received their A.B. degrees was the same as the year before.

Last August the Law School suffered a loss in the death of Judge William H. McHenry, who had been Professor of Law in this Law School for the past twenty-nine years. Judge McHenry is succeeded by Judge Charles Hutchinson of the Des Moines, Iowa, Bar. Professor Morton Hendrick is on leave of absence.

Two new men have been added to the faculty as Instructors in Law, Scott Mason Ladd, a graduate of Grinnell College and of the Law School of the State University; and Paul Hubert Williams, a graduate of the State University of Iowa and of the Drake Law School. Mr. Williams has also received the J.S.D. degree from the Yale School of Law. Mr. Ladd has been honored by election to Phi Beta Kappa and the Order of the Coif, and has practiced law for two years. He had his first year of law at the Harvard Law School, and while there was awarded the Pound Prize.

The Trustees have allowed the Law School an adequate budget for the present year for library purposes, and especially for rebinding, and all the books in the library that have had hard use are being rebound.



The enrollment in the *Pittsburgh Law School* for the year 1925-26 is 213, which is larger than in any previous year. This is in spite of the fact that this year the school is feeling the final effect of the abolishment of the combined course arrangement with the college of the University of Pittsburgh, and the raising of the requirement for admission to a degree received upon the completion of a four-year college course. This year for the first time all students in all three classes graduated from college before entering our Law School.

There have been no new courses introduced, and but one change in the faculty. Mr. J. P. Herron, Assistant Professor of Law, has resigned, and Mr. John D. McIntyre has been made Assistant Professor of Law, and will teach first year Property, formerly taught by Mr. Herron. Mr. McIntyre graduated from Grove City College in 1914, and from the Pittsburgh Law School in 1921 with honor. He is now practicing in Pittsburgh.

The School has received from Miss Annie Gibson Roberts (a great granddaughter) a bust of John Bannister Gibson, Justice of the Pennsylvania Supreme Court 1816-1853, part of which period he was the Chief Justice.

The class of 1925 has presented to the school a silver cup to serve as a trophy in the Inter-Fraternity Moot Court competition, the name of the winning Fraternity to be engraved each year on the cup.

The greatest change in the make-up of the *Lamar School of Law of Emory University*, Atlanta, Georgia, for this year has been the addition to the faculty of Charles J. Hilkey, Ph.D., J.D., as dean of the school and Simmons Professor of Law. Dean Hilkey was for several years dean of the Drake University Law School, and since severing his connection there has done graduate study at the Harvard Law School and engaged in practice at Des Moines, Iowa. His addition to the faculty gives the school five full-time instructors for about sixty-five students.

The most notable change in courses of instruction for the year consists in the decision of the faculty to give credit toward graduation for both the Legal Bibliography work and the Moot Court work. The former will be conducted by a regular member of the full-time faculty in the Spring Term for the first-year students. The latter will be conducted by one of the practicing attorneys of Atlanta, assisted by various members of the faculty, and will be required of seniors throughout the year; the meetings being held every other week for two or more hours at a time.



Requirement of two years of academic study in the *Mercer University Law School*, Macon, Georgia, goes into effect this year; however, there has been practically no curtailment of the number of entering students.

This school is, in addition to being a member of the Association of American Law Schools, a Class A School in the rating of the American Bar Association and is registered by the New York Board of College Regents.

The library is being increased consistently and is one of few Southern law school libraries containing all of the English cases, all the important sets of annotated cases, the entire Reporter System, the reports of the several states which have recently been added, and all of the well-known digests, encyclopedias, and a large collection of the standard text-books.

Graduates of the school have been making such a good showing in practice, both in Georgia and the nearby states, that the school is getting a reputation among lawyers and the legal profession generally in the state as being one of the best two or three schools in the South.

There is no change in the faculty of the school, with the exception of Assistant Professor J. A. McClain, Jr., who has left the teaching profession for the active practice of law. Dean Wm. H. Fish continues his courses in Georgia Procedure, Evidence, Criminal Law, Wills, and Bills and Notes. Professor Rufus C. Harris, LL.B. and J. D. (Yale), the Secretary of the Law School, and Professor D. H. Kerchner, J.D. (University of Chicago), the other full-time men,

continue their courses of last year, Professor Harris carrying the Property subjects, including Trusts and Torts, and Professor Kerchner continuing his work in Contracts and the allied subjects in addition to Corporations and Conflict of Laws. The part-time men consisting of Mr. O. A. Park, Constitutional Law, Mr. J. R. L. Smith, Equity, Mr. H. S. Strozler, Pleading and Municipal Corporations, Mr. J. N. Talley, Bankruptcy and Federal Procedure, Mr. C. B. Jones, Court Practice, and Judge M. D. Jones, Domestic Relations, are continuing their courses as of recent years.



Northeastern University, Boston, Mass., opened its twenty-eighth year on September 21, 1925, with a ten per cent. larger enrollment than in 1924. A similar increase is noted in each of the divisions of the School in Worcester, Springfield and Providence. In fact, in the divisions the enrollment this year is the maximum that can be handled with the present classroom equipment. This increase is especially significant and gratifying, following as it does the increasing standards of the school.

The student body of the entering class this year is of an exceptionally high type, a larger percentage than usual being college men. More and more business men are entering the school and successfully completing the course of study. It is felt that with the increasingly higher type of student body which Northeastern is drawing, increasingly higher standards and a higher quality of work will be possible.

The school this year is continuing under the new curriculum started in 1924. Beginning this September the Law III and Law I classes were divided into two sections. Property III-1 and Property III-2 have been taken from Law IV and placed in Law III. The complete curriculum for the four years will be in effect next year.

The faculty of the school remains about the same as last year. Mr. Walter Barton Leach, Jr., has been added to the staff. Mr. Leach will teach Evidence and Property III-2. Mr. Leach is a graduate of Harvard Law School, taught International Law at Harvard College from 1921 to 1924 and since that date has been Secretary to Justice Holmes of the United States Supreme Court. At the present time he is connected with the firm of Warner, Stackpole & Bradlee of Boston. Mr. S. Kenneth Skolfield has been added to the Administrative Staff of Northeastern University as Executive Secretary of the Law School.



The eighteenth session of the *College of Law of the University of Kentucky* opened with an attendance of 106 students. The

entrance requirements have been raised to two years of college work, and the fact that the attendance has not materially decreased is taken as convincing evidence that the state was ready for high educational standards for applicants for admission to the bar. A further indication is the fact that at the last meeting of the Kentucky Bar Association, it was determined to recommend to the Court of Appeals that the rules for admission to the bar be amended by requiring that applicants must be graduates of a first-class high school and of a law school with a two or three years course, thus eliminating office study as a method of satisfying the study period required of candidates for a law license.

The faculty remains the same as last year, but there has been some redistribution of courses. Professor W. L. Roberts has rearranged the Equity course into three divisions: Part 1 consists of general introduction to equity, with special emphasis on the powers of a court of equity and the principles covering the exercise of equitable powers; part 2 deals with the specific performance of contracts; and part 3 concerns quasi-contracts, mistake and misrepresentations. Professor H. J. Scarborough is giving the course in Damages, and Judge Lyman Chalkley has enlarged his practice court work into a course running through the entire year. Professor C. J. Turck is giving the course in Wills and Administration.

The following special lecturers will address the student body during the course of the year: Richard C. Stoll, Judge of the Circuit Court of Fayette County; Flem D. Sampson, Justice of Court of Appeals of Kentucky; Hugh Riddell, Ex-President Kentucky State Bar Association; J. P. Hobson, Commissioner, Court of Appeals of Kentucky; James Park, Referee in Bankruptcy; David C. Hunter, Chester D. Adams, Wm. E. Nichol and George W. Vaughn of the Lexington Bar.

The Kentucky Law Journal, publication of the students of the College of Law, is edited this year by Hobart H. Grooms, of Mt. Sterling, Kentucky, and E. B. Cochran, of Lancaster, Kentucky, is business manager. Professor W. Lewis Roberts continues to act as faculty editor of the publication.

There are two national fraternities at the University now in the College of Law, the Phi Alpha Delta and Phi Delta Phi; the latter having been granted a charter during the national convention of the fraternity held in California last September.

Miss Willy King has been appointed Secretary to the Dean of the Law College, and Miss Clara White is in charge of the Law Library.

Plans are being discussed for the removal of the Law quarters to a new building, which will probably not be ready for occupancy until the close of the year.

Mr. Frederic P. Storke, of Auburn, New York, was added to the faculty of the *Law School of the University of Colorado* at the beginning of the present school year. Mr. Storke received his A.B. at Colorado College in 1914, his LL.B. at the University of Colorado in 1917, and after practicing in Colorado for some two years removed to Auburn, N. Y., and became connected there with the old-established firm of Storke, Seward & Elder, of which his father is the head. In 1921 he received from Harvard the degree S.J.D.

The first-year class in the school is the largest since the war, as was also the graduating class the last school year; but three Federal Board men now remain in the school, whereas nearly one-half of its students in the two years following the war were under Federal supervision. Three of the present students are women, of whom two are candidates for degrees. The summer quarter the past school year had three times as many students from outside the state of Colorado as registered for the previous summer session.

A new course in Oil and Gas has been added to the regular curriculum and will be given in the winter quarter under the supervision of Professor Arthur. This follows the highly successful course in the same subject here by Professor Kulp of the Oklahoma University Law School at the last summer session. Professor Kulp's casebook will be used.

Dean Fleming remains at the head of the faculty, after a somewhat severe illness last winter, but with his work lightened.



The *John B. Stetson University Law College* enters the fall session of 1925-26 with a larger enrollment, a larger faculty, a higher entrance standard, and a more complete course than ever in the history of the school.

Endeavoring to comply accurately with the standards proposed by the American Bar Association, the requirement of at least one year of college work before entrance upon the three-year law course is being enforced for the first year. It is likely that the two-year requirement will be enforced next year.

Two new full-time professors added to the Stetson law faculty are: J. A. Carpenter, a former Stetson student, and graduate student of Columbia University, with B.S., A.M., and LL.B. degrees; and Jennis W. Futch, B.A. and LL.B.—both of Yale University. J. E. Futch, member of the DeLand firm of Scarlett, Jordan, Futch & Fielding, is instructing in Common Law Pleading.

In compliance with the demands made upon Florida lawyers by the real estate activity in the state, Stetson is offering special courses in Real Estate Law, with especial reference to the examination of titles. Professor Lewis Herndon Tribble has this work

in charge. Professor Tribble has done graduate work at Columbia University, University of Rennes, France, and Yale University; and is also a former Stetson student.

Enrollment for the fall term is: Sophomores 40, juniors 30 and seniors 25.



There are no changes in the faculty of the *College of Law, University of Florida*, but a new course on Abstracts, in charge of Professor H. L. Thompson, has been added to take the place of the course on International Law heretofore given by Professor Dean Slagle.



The *Law School of the University of Detroit* has been expanding and it has been necessary to enlarge the faculty. Regent George A. McGovern, S.J., has appointed several highly qualified lawyers as members of his teaching staff. Among the new members of the faculty are Judge Vincent M. Brennan, former Congressman, who sits in the Wayne Circuit Court. Another new member is Anthony Park, who was educated in law at Edinburgh, Scotland, and Oxford, England, and then spent eight years in practice. He comes from Cleveland. Merle E. Brake, the third appointee, graduated from the University of Chicago, spent four years in the practice of law, and did extensive work as a high school instructor in several educational institutions. Lewis W. McClear, a prominent Detroit attorney, will teach Criminal Law. He has made a record through his creditable work in the United States District Attorney's office and in an extensive private practice. Harry S. Toy, well and favorably known because of the excellent service he rendered while assistant prosecuting attorney, is aiding in the Criminal Law courses. Associated with the last two mentioned is Frank J. Murphy, Judge of the Recorder's Court, who is also engaged in Criminal Law instruction.



The following changes in the faculty have been reported by Dean Wilkinson, of the *Fordham University School of Law*: Associate Professors Frederick L. Kane and John A. Blake have been promoted to Professors of Law. Messrs. Arthur A. McGivney, William J. O'Shea and Winthrop A. Wilson have become lecturers in law on the faculty. Mr. James D. Carpenter, lecturer in law, has resigned from the faculty. Rev. John H. Fasy, S.J., has become Regent and Professor of Jurisprudence in the place of the Rev. Daniel F. Ryan, S.J.



Professor Thomas E. Atkinson has been granted a year's leave of absence from the *School of Law of the University of North Dakota*. He has a teaching fellowship in the Yale Law School. Mr. F. E. Heckel, of Bow-

bells, North Dakota, is substituting for Mr. Atkinson and is also teaching the course on Evidence, which was given last year by Mr. Burby. Mr. Burby is teaching the course on Partnership during the present semester, and Mr. Lusk is offering a new course on Quasi-Contracts.



Two hundred fifty-seven students from fifty-five colleges and universities have enrolled in the *Law School of Western Reserve University*. Mr. William A. McAfee, who was teaching the subject of Conflict of Laws, has resigned, and his work is being taken care of by Professor M. S. Breckenridge. Mr. James J. Laughlin, A.B., John Carroll, 1915, LL.B., Harvard, 1919, has been added to the faculty. He will teach the course in Private Corporations, which was formerly taught by Mr. Harold H. Burton.



The Legislature of the State of South Dakota in January, by a special bill, appropriated \$8,000 for use by the *Law School of the University of South Dakota* in building up its library. As the result of this appropriation, it has been possible to fill in many of the gaps in the State Reports. By the time the appropriation is exhausted it is hoped that there will be in the library every decision handed down by courts of intermediate and last resort in the United States, including its territorial possessions, Dominion of Canada, and Great Britain, outside of its colonial possessions.

Professor Harry W. Vanneman will be in charge of the library, and many new mechanical devices have been added to make the books more accessible in their use. The faculty this year is in its personnel identical with that of last year and the attendance substantially the same.



The *University of Oregon Law School* reports that Professor E. H. Decker gave the course on Insurance this summer in the second half of the summer quarter at the Stanford University Law School. Mr. Arthur H. Kent, an honor graduate of Stanford University Law School, has been added to the faculty of the University of Oregon to take the place of Mr. James A. Miller, who is away on leave of absence. Mr. Kent was a member of the faculty of the Stanford University Law School during the past summer, and gave the course on Personal Property.

The enrollment in the Law School has been checked up this fall and it is interesting to learn that three-fourths of the members of the first-year class have had either three or four years of college work before entering the Law School.



The *College of Law of the University of Cincinnati* has moved into their new build-

ing on the campus of the University. The building known as "The Alphonso Taft Hall" was dedicated on October 28th. The dedicatory address was given by Chief Justice Taft, and at the dinner in the evening the following were among the speakers: Hon. Nicholas Longworth, Senator Richard P. Ernst of Kentucky, Senator Atlee Pomerene, Carrington T. Marshall, Chief Justice of Ohio. A feature of the banquet was a speech by one of the senior students on behalf of the present student body of the College of Law.



Honorable Franz C. Eschweiler, Professor of Law at *Marquette University* and one of the Justices of the Supreme Court of the State of Wisconsin, the Professor of Torts, is on leave of absence during the first semester, and Professor Willis E. Lang is at present handling the course in Torts.

Honorable William J. Morgan, former Attorney General of the State of Wisconsin, is giving a course in Contracts in Restraint of Trade and Unfair Competition. Mr. Morgan, while Attorney General, made a record in suppressing trade combinations and in prosecutions of organizations attempting an unlawful restraint of trade. Professor Oliphant's collection of cases on Contracts in Restraint of Trade is being used as a basis of the discussion in the course.



Judge Vital W. Garesche, of the law faculty of the *Benton College of Law*, St. Louis, Missouri, died on the 14th of April. Judge Garesche taught the subject of Constitutional Law in this school for many years. He was a graduate of the Benton College of Law—Class of 1900.

Mr. John C. Vogel, A.B., LL.B. has been appointed lecturer on the subject of Constitutional Law. Mr. Vogel succeeds Judge Vital W. Garesche.

A course in Legal Bibliography has been prescribed as a required subject this session. The subject is taught by Judge Frank L. Landwehr in the fourth year to a class of thirty-three students.

The annual banquet, celebrating the thirtieth year of the college, will be held at the Buckingham Hotel, Pine and Lindell Boulevards, on the evening of December 12th.

The college will again offer courses in Sociology, Psychology and Public Speaking on Saturday afternoons during the present year. These courses have proven popular in the two previous sessions of 1923-24 and 1924-25.



The following changes have been made in the faculty of the *Kansas City School of Law*:

Judge Francis H. Trimble, of the Kansas City Court of Appeals, has just been added

to the faculty and will lecture upon the subject of Conflict of Laws.

Judge Samuel A. Dew, Judge of the Circuit Court of Jackson County, Missouri, at Kansas City, and a graduate of this school, will lecture upon the subject of Code Pleading.

Judge W. H. McCamish, Judge of the District Court of Wyandotte County, Kansas, will lecture upon the subject of Kansas Pleading and Practice.

Judge Kimbrough Stone and Judge Arba S. Van Valkenburgh, Judges of the United States Circuit Court of Appeals for the Eighth District, will give special lectures in connection with the course on Constitutional Law, with special reference to the following cases, respectively: *Marbury v. Madison* and *Gibbons v. Ogden*.

Judge Albert L. Reeves and Judge Merrill E. Otis, Judges of the District Court of the United States for the Western District of Missouri, will give lectures in connection with the course on Constitutional Law, with special reference to the cases of *McCullough v. Maryland* and *Dartmouth College v. Woodward*, respectively.

Judge James E. Goodrich, former Judge of the Circuit Court of Jackson County, and now counsel for the Commerce Trust Company, will give special lectures on "The Law of Modern Trusts."

Mr. John Griffith Madden has been appointed as an Assistant Instructor. Mr. Madden received his A.B. degree at the University of Missouri; the degrees of B.A. and B.C.L. at Oxford; and the degree of LL.B. at Columbia University, New York City.

On Monday, October 12, the school began work upon a new building, to be erected during the present year. This building will be located at 913-915 Baltimore avenue of this city, and will be used exclusively for Law School purposes. The building, exclusive of land, will cost close to \$100,000.



The *Night Law School of the University of Omaha* is now located permanently in its new building at 1307 Farnam street in the heart of the city. The building was given to the University of Omaha a few years ago by Mrs. Sara H. Joslyn and reconstructed this year for school purposes at a cost of over \$15,000. The Law Library will soon be moved to this new location, brought down to date, and a more comprehensive course in brief-making and the use of law books given this year.

Another of the periodical pamphlets on law subjects is on the press and will soon be ready for distribution. The subject is "Tax Titles in Nebraska," written by Mrs. Thomas B. Dysart, one of the instructors. These are distributed free of charge to all lawyers on the West Publishing Company's list in Nebraska and Western Iowa.

A free extension course of lectures to business men of the city is contemplated for the winter season.



There is one new member of the faculty of the *Dickinson School of Law*—Harold S. Irwin, A.M., LL.B., of the class of 1925, who is taking part of the work in Real Property and will teach Elementary Jurisprudence. There are now nine members of the faculty.



The *Law School of the University of Wyoming* entered its fifth year on September 22 with substantially the same enrollment as last year. The enrollment in the pre-legal curriculum shows an increase of 20 per cent. over the registration of last year.

The course in Wyoming Practice and Procedure has been enlarged, with Dean Driscoll and Mr. Garnett offering instruction. The faculty of the Law School this year is unchanged. Miss Mildred Smith has been appointed secretary of the Law School. Important additions have been made to the library during the summer.



The slight decrease in the enrollment of the *T. C. Williams School of Law*, Richmond, Va., is due to the more rigid requirements imposed upon the students matriculating this year for the first time. Only seven new students with less than two years of academic work were permitted to enter this session.

Professor W. S. McNeill, who was on leave of absence last year due to illness, has returned and is carrying the major part of his regular work. Mr. Leon Bazile, who taught most of Dr. McNeill's courses during his absence, is giving the course in Criminal Law this year.

There are no changes in the faculty or in the courses.

During the past summer a course of twelve weeks was given, in which the following subjects were offered: Real Property, Wills, Bankruptcy, Carriers, Damages, Sales, Bills and Notes and Criminal Procedure. The attendance at the summer session exceeded that of any previous year.



The *Jefferson School of Law* at Dallas, Texas, an evening school offering a three-year course, has abandoned the text-book system and is teaching the casebook method exclusively. The enrollment has jumped from a few over 50 last year, to 81 enrolled this year.

Mr. George E. Hughes, LL. B. George Washington University, has been added to the faculty and at present is teaching Personal Property, Partnership and Evidence.

"The Jeffersonians," an orchestra from the school, plays regular radio concerts over station WFAA and WRR at Dallas, and

would be pleased to hear from any of the readers of the American Law School Review who happen to listen in on their programs.



The requirement of one year of study in a College of Arts, as a prerequisite to matriculation, became effective at the *School of Law of the University of Buffalo* this year. In September, 1927, the requirement is raised to a minimum of two years of Arts study.

The following additions have been made to the teaching staff:

Thomas Penney, Jr., A. B., LL. B., instructor in Corporations.

Sidney B. Pfeifer, A. B., LL. B., instructor in Elementary Law.

Philip Halpern, LL. B., instructor in Torts and Crimes.



At the annual meeting of the *Minnesota College of Law*, Minneapolis, held in June, 1925, Mr. Lars O. Rue was elected President and Dean to succeed Mr. George T. Simpson, who has ceased his active participation in the operation of the College. Mr. Arthur W. Selover was elected Associate Dean to succeed Mr. Rue; Mr. C. Louis Weeks was re-elected Secretary; and Mr. James C. Bain was re-elected Treasurer. The law school has suffered a great loss in the recent death of professor Weeks, the new secretary of the school.

Owing to stress of business connected with the Receivership of the Minneapolis & St. Louis Railroad, Mr. Colin W. Wright, General Attorney of that railroad, was unable to give his course of lectures on Bailments and Carriers this school year. Mr. George W. Peterson, formerly General Attorney of the Chicago, St. Paul, Minneapolis & Omaha Railway, will teach that subject.



The *St. Vincent School of Law of Loyola College*, Los Angeles, begun in September, 1920, has so grown in numbers and prestige that it has now become one of the best recognized law schools in the Pacific Southwest.

The courses of study have been thoroughly reorganized. Many of the most prominent members of the Los Angeles Bench and Bar have been added to the staff. The present faculty personnel consists of the following distinguished gentlemen: W. Joseph Ford, A. M., LL. D., Dean and Professor of Evidence; William T. Aggeler, J. D., Public Defender Los Angeles County, Professor of Agency, Bailments and Carriers; Fred N. Arnoldy, A. M., J. D., Professor of Real Property; Edward T. Bishop, B. L., Los Angeles County Counsel, Professor of Briefing, Research and Moot Court Procedure; Henry G. Bodkin, B. S., J. D., Professor of

Negotiable Instruments, Wills and Probate Law; Hon. Charles S. Burnell, LL. D., Judge Superior Court Los Angeles County, Professor of Constitutional Law and Conflict of Laws; Hon. Guy R. Crump, Professor of Equity Jurisprudence and Trusts; Louis J. Euler, A. M., J. D., Professor of Partnership, Sales and Damages; Rev. George G. Fox, S. J., A. M., Professor of Metaphysics and Forensics; Charles W. Fricke, LL. M., J. D., Chief Deputy District Attorney Los Angeles County, Professor of Criminal Law and Procedure; Hon. Leslie R. Hewitt, Former Judge Superior Court Los Angeles County, Professor of Public Corporations and Equitable Remedies; Frank P. Jenal, A. M., LL. D., Professor of Torts and Domestic Relations; A. I. McCormick, J. D., Professor of Private Corporations; John F. Moroney, A. M., J. D., Professor of Elementary Law and Personal Property; Norbert Savay, A. M., LL. B., Professor of Admiralty; Rev. James L. Taylor, S. J., A. M., Professor of Psychology and Moral Ethics; Rev. Aloysius M. Torre, S. J., A. M., Professor of Logic; Harold L. Watt, A. B., J. D., Professor of Contracts; Leon R. Yankwich, LL. B., Professor of Common Law and Code Pleading and Practice.

The following distinguished members compose the Advisory Board of the Law School: Rt. Rev. John J. Cantwell, D. D., Bishop of Los Angeles and San Diego; Hon. Joseph Scott, K. S. G.; Hon. I. B. Dockweiler, K. S. G.; Hon. J. Wiseman Macdonald, K. P.; Hon. Paul J. McCormick, Federal District Southern California; Francis S. Montgomery, A. M., LL. B., Ph. D.; Michael J. McGarry, A. M.

A two-year College Pre-Legal Course, preparatory to the study of law, has been established to comply with the requirements of the American Bar Association.

All the usual subjects, with special insistence on Philosophy, Economics, Sociology, Constitutional History, Political Science, Public Speaking and Forensics, are included in this course.

The Law School student body is now numerically large enough to have its own Student Body Officers and Personnel, with all the duties and privileges accorded other departments of the college. Amongst the many functions planned this year will be a strongly concentrated New Library Campaign, a drive for an enlarged new student enrollment, a banquet in honor of the law faculty, and several social events of unusual character.



The eighteenth year of the *Portia Law School*, Boston, opened in September, with an enrollment of over four hundred students, in both divisions of the school.

Several changes in the faculty have been made this year. Professor Lee M. Fried-

man, who for a number of years has taught the subjects of Bankruptcy and Legal Ethics only, will this year teach the subject of Sales, instead of Bankruptcy. The subject of Sales was formerly taught by Dean Arthur W. MacLean. Professor Bessie N. Page, formerly professor at Boston University, will teach the following subjects this year: Sales, Torts and Bankruptcy in the day division and Landlord and Tenant and Bankruptcy in the evening division. Dean Arthur W. MacLean will again teach the subject of Constitutional Law, after several years' interim. Miss Louise M. Davis has been appointed to the faculty and will conduct the course in the Introduction to the Study of Law. Sumner S. Wheeler, Esq., President of the Association of American Law School Librarians, has been appointed to the faculty this year, and is teaching Equity and Trusts in the evening division.

A new elective course in Moot Court work, and brief making, is being given by Ralph H. Willard, Esq., of the firm of Ham, Willard & Taylor. This course is open to nonmembers of the school as well as to registered students.

Another new course offered this year, and which is required of freshmen, is the course on the "Introduction to the Study of Law." This will include instruction in the use of law books, how to abstract cases, and the principles of legal research.

The school library has procured many additional duplicate copies of casebooks for use the coming year. Contrary to the former custom, these books will be loaned to the students for home use, without charge.



Suffolk Law School, Boston, reopened for its twentieth year on September 21st with the largest enrollment in its history. If the mid-year entrants are as numerous as last year, the grand total for the year will exceed twenty-two hundred men.

This is the second year of the day department, about one-third of this year's freshman class being day students. The freshman and sophomore classes meet in four divisions; 10 to 11:30 a. m., 4 to 5:30 p. m., 6 to 7:30 p. m., and 7:35 to 9:05 p. m. The junior and senior classes have no day sessions this year.

The plan, inaugurated by Dean Gleason L. Archer last year, of maintaining a Trial Board for the formal trial of students accused by the monitors of violation of rules of the school, has proven so valuable that it has been made a permanent feature of the school. The Board consists of Dean Archer as chairman, Professor H. J. Archer, and A. M. Cleveland. Miss Caraher, secretary to the dean, attends all trials and takes notes of the evidence and decisions. The effect upon student morale is beyond esti-

mate. On examination nights the entire building is devoted to a single class with a large staff of monitors to prevent whispering or collusion of any sort. Out of forty-eight such examination nights during the past year, there were no complaints filed except for nine evenings during the first semester. Fifty-four cases were decided by the Board last year.

There are no changes in the Faculty this year, except the appointment of former Congressman Joseph E. O'Connell to assist Professor Halloran in the subject of Wills and Probate. Dean Archer's new text-book is being used as a basis of this course.



The *Osgoode Hall Law School of the Law Society of Upper Canada*, at Toronto, includes the following as members of the faculty: John Delatre Falconbridge, M. A., LL. B., K. C., Dean; Donald Alexander MacRae, M. A., Ph. D.; Sidney Earle Smith, M. A., LL. B.; Samuel Hugh Bradford, B. A., K. C.; Arthur Roger Clute, B. A., LL. B.; Harold William Alexander Foster, LL. B., D. S. O., M. C.



The *University Law School of the People's National University*, of Atlanta, Ga., reports a registration of thirty-one students.



This is the third year of the *Law School of the College of St. Thomas*, St. Paul, Minnesota. The following courses are being offered to third year students: Conflict of Laws, Real Property II, Constitutional Law, Insurance, Federal Practice, Legal Ethics, Municipal Corporations, Private Corporations, Appellate Procedure, Taxation and Evidence II. Mr. Ulric C. Scott is conducting the course on Real Property II, Mr. Owen P. McElmeel, Secretary of the Law School, is to give the course on Constitutional Law and the course on Insurance has been assigned to Mr. Kenneth G. Brill. The Dean of the Law School, Judge Thomas D. O'Brien, will give the lectures on Legal Ethics, and Mr. Neil Cronin and Mr. John A. Burns are giving the courses on Municipal Corporations and Private Corporations. The subject of Taxation has been assigned to Mr. P. J. Ryan, and Evidence II to Mr. James M. Moore. Another new member of the faculty is Mr. Eugene H. O'Neill, who will give Pleading and Practice II, a second year course.



The *South Texas School of Law* (Y. M. C. A.) Houston, Texas, has added two members to the faculty. E. T. Branch becomes instructor in Criminal Law, and C. S. Gentry will teach Constitutional Law and Common Law Actions. Richard T. Fleming, president of the Harris County Bar Association, gives

the course on Legal Bibliography, which will be taken by all students.



The *Y. M. C. A. Law School*, at Dallas, Texas, has added their third year work this fall. This is the third year in the life of the school. The courses offered in the third year are Constitutional Law, Private Corporations and Evidence. Property II has been added as a new course in the second year. Charles D. Turner, President of the Dallas Bar Association, and Albert S. Johnson, have been added to the faculty.



Mr. W. A. McClure, Secretary of the *Chattanooga College of Law*, Chattanooga, Tenn., writes that Professor Body, the instructor in Torts, is away on leave of absence, and R. F. McClure will give the course during the year. Mr. Gus A. Wood is now Professor of Domestic Relations and Moot Court, and T. T. Rankin will give the course on Corporations. The remainder of the faculty continues the same.



Mr. T. E. McDonald has been added to the faculty of the *Baylor University School of Law*, at Waco, Texas,



At the *College of Law of the University of Tulsa*, Tulsa, Oklahoma, a course in Oil and Gas Law is being given for the first time. Mr. Horace Hagan will teach the class in Oil and Gas; and H. R. Williams will have the subject of Indian Land Titles. These are very important courses in this part of the country.

E. E. Hanson, Secretary of the School, reports that next June the first class will graduate from the College of Law, fifteen receiving their LL.B. degree.

New members of the faculty are as follows: Byron Kirkpatrick, Conflict of Laws; W. E. Green, Insurance; A. E. Montgomery, Suretyship; John Ladner, Code Pleading.



This fall, the *Northwestern College of Law, Inc.*, Minneapolis, has added to its faculty Judge Manley Fosseen and Thomas Kneeland. Judge Fosseen is very well known in Minneapolis and has served on the bench since 1914. He has charge of the courses on Common Law Pleading and Code Pleading. Mr. Thomas Kneeland is one of the oldest attorneys of the Northwest, having come to Minneapolis in 1880. He has been assigned to the course on Taxation. The school year is well under way and the work is progressing well. New quarters have been opened on the second floor in the Plymouth Building at Sixth and Hennepin, where are located the general school office and library. This fall a

Junior College and High School Department has been opened. The Associate Dean, Mr. Carl C. Wheaton, is beginning his fifth year of work.

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A new law school has been established in the city of Baltimore this fall, namely, the *Law Department of the University of Baltimore*, which is situated at St. Paul and Mount Vernon Place. The first year entering class numbers seventy-four students. It is planned to establish a law library for the use of the students as soon as possible.

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Two new members have been added to the faculty of the *School of Law of the Washburn College*, Topeka, Kansas: Justice W. W. Harvey, who gives the course on Torts and Sales, and Mr. T. M. Lillard, who gives the course on Bailments and Carriers.

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The *College of Law of the University of Notre Dame* reports a slight falling off in the first year enrollment, due to the fact that the pre-law requirements have been raised this year to two years of college.

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The course in Common Law Pleading, at the *Atlanta Law School*, is being given this year by Hon. E. E. Andrews, State Senator from the Thirty-First District, formerly of Toccoa, Georgia. The Atlanta Law School now offers a three-year course in addition to the two-year course which has been offered for many years. The entrance requirements have been raised to include a high school education or its equivalent. The enrollment shows sixty-eight in the first-year class and seventy-one in the second year.

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Prof. John Joseph Hagerty, A.B., LL.B., has resigned from the faculty of the *School of Law of the Catholic University of America*, and Mr. Joseph O'Keefe, A.B., LL.B., has been added to the faculty. Mr. O'Keefe graduated from Holy Cross College in 1910 (*magna cum laude*). For several years he was chief accountant in the Income Tax Division in Washington.

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The *Hartford College of Law*, Hartford, Conn., reports a large enrollment in the first year class. All of the students who have taken the bar examinations have passed them. One new member has been added to the faculty, namely, Mr. Wallace W. Brown, who is a graduate of the Harvard Law School.

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The only change in the faculty of the *Law School of Tulane University* at New Orleans

is the resignation of Judge Wynne G. Rogers, of the Louisiana Supreme Court, and the appointment of Judge William W. Westerfield of the Court of Appeals for Orleans Parish, to succeed him. Judge Westerfield will give the course on Louisiana Practice, formerly given by Judge Rogers.

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The *Y. M. C. A. Law School*, Minneapolis, reports a registration in the freshman class of twenty-eight students. Among these students there is a large portion of the men who are more mature than usual. The entering class is also the largest in numbers in the history of the school. The school has now had three graduating classes, and the records of their students in the bar examinations stand very high. The average of passing grades for the three years is 66% per cent. The latest additions to the law school faculty are Judge Gunnar H. Nordbye, who gives the course on Domestic Relations; Judge Clyde R. White, who teaches Code Pleading; and Judge Edward F. Waite, who gives the course on Legal Ethics.

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There was incorporated last August in Milwaukee a new night law school, known as the *Milwaukee College of Law*. The school will hold its classes in suite 902 Straus Building, which is located on the northeast corner of Grand avenue and Third street, the heart of Milwaukee's financial and business district. The school opens with a faculty sufficient to carry on the work of the first semester. The faculty is under the direction of Attorney Michael Levin, who is the Dean of the school. Dean Levin has practiced law in Wisconsin for seventeen years and is a graduate of George Washington University Law School. The law course will extend over three years, of two semesters each. Sessions are held on Tuesday, Thursday and Friday evenings. The object of the Milwaukee College of Law is to give an opportunity for the study of law to those students who have to work during the day.

The following is a list of the members of the faculty: Hon. August E. Braun, Judge Civil Court, Judge-elect Circuit Court Milwaukee County. Charles D. Ashley, of Van Dyke, Van Dyke & Hauxhorst, B.A., Wisconsin, LL.B., Harvard, student of law and history at Oxford, England. Andrew Brunhardt, Assistant City Attorney, Ph.B., J.D., University of Chicago. A. George Bouchard, B.A., LL.B., University of Michigan. Mr. Bouchard has taught at the University of Michigan and other schools and formerly was associated with Ollwell & Brady, Attorneys. Clifford E. McDonald, B.A., Columbia College, LL.B., Marquette. Mr. McDonald has taught at Marquette University. Carl Muskat, of Shaw, Muskat & Sullivan, LL.B., George Washington University, formerly As-

sistant District Attorney. Mr. Muskat was formerly instructor at Marquette University. Arthur Rockow, LL.B., LL.M., George Washington University, regional manager of the United States Veterans' Bureau. Malcolm K. Whyte, of Lines, Spooner & Quarles, B.A., LL.B., University of Wisconsin. Leo A. Wolfsohn, B.S., University of Missouri.



The following new instructors have been added to the faculty of the *Northwestern College of Law*, Portland, Oregon: James W. Crawford, Official Reporter of Oregon Supreme Court, who conducts a course in Current Law and Legislation; U. T. DeMartini, Deputy Sheriff of Multnomah County, who conducts a course in Extraordinary Legal Remedies; I. F. Phipps, a graduate of the University of Oregon Law School, who conducts a course in Insurance; Herbert L. Swett, a graduate of Harvard Law School, who conducts a course in Conflict of Laws; and Lamar Tooze, also a graduate of Harvard Law School, who conducts a course in Sales. Supplementing the course in Trusts, there will be a series of lectures by Mr. Albert Grutze, Trust Officer of the Title and Trust Company.

It is interesting to note that one-half of the present senior class took the State Bar Examinations last summer and all passed successfully.



Clinton F. Stanley, A.B., LL.B., has been added to the law faculty of *Golden Gate College School of Law*, San Francisco, and will give the course on Contracts. The school offers a four-year course and the sessions are held for two hours on Monday, Wednesday and Thursday evenings.



Among the new members of the faculty of *Jefferson School of Law*, at Louisville, Kentucky, are the following: Benjamin F. Washer, who will give the course on Corporation Law, Wills and Administration; Robert P. Hobson, LL.B., who will give the course on Evidence, Domestic Relations and Sales; S. Merrill Russell, LL.B., who will give the course on Pleading and Practice; John T. E. Stites, LL.B., who will give the course on Partnership; Ewing L. Hardy, LL.B., who will give the courses on Negotiable Instruments and Bailments and Carriers; and Robert E. Grubbs, LL.B., Registrar, who will give the course on Agency.

The school suffered the loss of a friend, instructor and former Dean in the death of Judge Shackelford Miller a year ago. Judge Miller was Dean of the Jefferson School of Law from 1905 to 1912.



A new law school, known as the *Minneapolis College of Law*, opened its doors this fall

in Minneapolis, Minnesota. The new school is an evening school, offering a four-year course of study. A feature of the curriculum is the Moot Court work, which begins in the first year and is continued throughout the course. A short course in coaching preparatory to the bar examination is under preparation and work in this will be commenced in the near future. Mr. Elmer C. Patterson is Dean of the new law school. Dean Patterson has been associated with two other successful night schools in Minneapolis and was the Dean and founder of one of them.

The new law school is incorporated. W. W. Bardwell is President; Elmer C. Patterson, Vice President; Allen T. Rorem, Secretary; A. C. Tibbetts, Treasurer; and H. L. Tibbetts, Registrar. The following are members of the faculty: Elmer C. Patterson, Dean; Hon. Frank E. Clark, Associate Dean; Judge W. W. Bardwell, Judge of District Court; E. J. Lden, State Librarian fifteen years; Allen T. Rorem; Edward H. Hawley; Ed. J. Goff; M. U. S. Kjorlaug; Oscar W. Boen; Jerome Jackman; and Elmer L. Dills.

The enrollment to date in the first year class is 30 students.



One new professor has been added to the faculty of the *Furman University Department of Law*, Greenville, South Carolina. There are twenty-two students enrolled in the school.



Dean William Angus Hamilton of the *School of Jurisprudence of William and Mary College*, Williamsburg, Va., announces that Peter Paul Peebles, A.B., M.A., B.S., B.L., has been made an Assistant Professor of Jurisprudence. Mr. Peebles is the first graduate in Law at William and Mary since the Civil War. The rules of the School of Jurisprudence provide that no student can receive the B.L. degree (the ancient degree of William and Mary College) until he has received a college degree from a recognized college. At the present time there are two Professors of Jurisprudence, Messrs. Hamilton and Peebles, who are giving thirty hours of instruction. Senior students are allowed to take nine hours in law and juniors six hours in law, thereby graduating in law in two years after they receive their college degree.



Homer A. Holt has resigned from the law faculty of *Washington and Lee University*, and Raymon T. Johnson has been elected to his professorship. Lewis Tyree is away on leave of absence for one year and is taking graduate work in the Columbia University School of Law and teaching in the New Jersey Law School. Mr. Tyree's place is being filled by Thomas Clifford Billig.

The American Law School Review

An Intercollegiate Law Journal
S. E. Turner, Editor

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Just Published in American Casebook Series

COSTIGAN'S CASES ON TRUSTS

By George P. Costigan, Jr.

Professor of Law, University of California

Author of Casebooks on Wills, Legal Ethics, Contracts, etc.

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Have the Bench and Bar Anything to Contribute to the Teaching of Law

By LEARNED HAND

Judge of the United States Circuit Court of Appeals, Second Circuit

[Address delivered at the Twenty-Third Annual Meeting of the Association of American Law Schools, Chicago, December 30, 1925. The discussion following this address will be found on page 680 et seq. of this magazine.]

MR. PRESIDENT and Gentlemen: The teaching of lawyers is indeed as distinct a vocation from the practice of law as law is from engineering or science. You have of recent years come practically to recognize it by your increasing insistence upon the teacher's exclusive devotion to his calling, so that I suppose, not only has the well-worn practitioner wholly disappeared, who from his semi-inatiquation delivers a course of lectures, but the part-time teacher, even in the prime of his powers, is more and more evidently doomed. I cannot see this change as anything but happy and advantageous. If for no other reason, I should be glad to rest my case upon the necessarily superficial scholarship of both bench and bar, with the rarest exceptions. The conditions of our calling preclude us from gaining a systematic understanding of the law, or even of keeping up with its

course. We are predetermined sciolists, compelled to maintain some working acquaintance with the whole field, and consequently incapable of thorough knowledge in any part.

However, it by no means follows, because we are not competent as teachers, that we may not have suggestions for you that you might use to advantage. No doubt you have found as much in your experience. After all, we are laborers in the same vineyard—I hope the metaphor has not become unlawful—and though your share is to train us, perhaps in return we may be able to give you valuable hints, here and there, if they be no more than those of a shrewd outsider. Yet I shall to-day try nothing of the sort, largely, if not wholly, because I have, frankly, no concrete suggestions to offer. The difference, as I observe it, between the lawyer trained in a good school and his

competitors, is so vast, the comfort which he brings to a somewhat harassed and certainly overcrowded bench is so grateful, that I fear my critical faculties drop a bit into abeyance, and I am prone to fall into that divine mood, which looked forth upon the world and found it unqualifiedly good. My purpose will be, not in detail to discuss how we may work together, but rather whether you have anything to gain from us, except the casual suggestions of a sympathetic observer. That we have much to gain from you I shall assume without consideration; the last twenty-five years have too fully proved it. Nor do I mean to question that our practical co-operation is not necessary to your material success in obvious ways. I am thinking rather in terms of your function as teachers, and, as I believe, as pattern makers of the law, and of ours as its practitioners, called upon to apply it in daily affairs. What, if anything, have you to gain professionally from your contacts with us? Have you anything beyond the beatitude of our sweet companionship?

The antinomy which lies at the foundation of the common law has been so often laid bare and emphasized that I hesitate again to discover it to your attention. Still it becomes so important in any such discussion as I propose that I cannot easily avoid the repetition. We profess in the decision of litigated cases to be applying pre-existing rules, found in one form or another in authoritative written sources. With some warrant we may regard such sources as having the common assent of the society in which they obtain, assent at least in so far as they have been inherited, and have not become so intolerable as to be swept away. Yet the merest smattering of an understanding of the growth of the law at once shows us that all such rules, principles, or doctrines (call them what one likes) have themselves for the most part been brought into existence as creations of individuals in the decision of past cases.

We proceed, as we have proceeded, by such changes as we can make without too severe shocks to the inertia or exist-

ing prejudices of our time; we go as far as our moral authority will carry us. Nevertheless, in the great bulk of our work, we accept as our authoritative major premises existing doctrines, which proceed from the past, and which therefore have that validity which the past must have in any but a revolutionary society.

Primarily, of course, your duties concern the adequate instruction of prospective lawyers in the origin and content of such accepted rules; what they mean, which is generally equivalent to learning how they came into existence. I cannot see that in this, by far the most absorbing, part of your work, you need our assistance in any way at all. It will not seem to you either undue diffidence or gratuitous flattery for me to say that you, and you alone, know the law in this sense, and that we must look to you, as we have increasingly come to do, as the sources of the only adequate learning in this part of our common work. The reports during the last quarter century are proof enough of the truth of what I say; they show an increasing tendency to accept as authoritative the conclusions of the great writers. It is, I think, entirely clear that we have here a new differentiation, that you will be recognized in another generation, anyway, as the only body which can be relied upon to state a doctrine, with a complete knowledge of its origin, its authority, and its meaning. We shall in very shame, if we have sense enough, acknowledge that pre-eminence which your position and your opportunities secure.

Why, indeed, we manage to keep as consistent a body of doctrine as we do. I often wonder. I am amused when I observe your own solicitude and ingenuity to reconcile our decisions, apparently assuming that sinners, as well as saints, must all be saved. And then I fall into an almost mystic mood, which perhaps I catch from this curious little trait of yours. I begin to ask whether, after all, there may not be a kind of *Zeitgeist*, a neo-Platonic Logos, an Oversoul, immanent in our corporate body, which guides us straight, despite the inanity of pro-

cesses by which we reach our results. Whether or not there is some such Genius of the Books, in some fashion you seem to be able to make reason out of chaos, and coherent speech out of many jarring tongues. That you can need us in the teaching of the law, viewed as an existing body of rules to be found in written pages, I do not see. That you can be in danger of the miasma which is supposed to choke and poison the academic life seems to me illusion. I cannot suppose that you have any trepidation on that score; rather that you proceed with a just confidence that you are competent without help or suggestion to train young men, so far as the law may be considered as positively determined and intelligibly formulated.

It is rather in the second view, which I indicated a moment ago, that you may suppose it important, like Antæus, occasionally to touch common earth. It is quite true that the law, being the reflection of the life of the community, might at least in theory be subject in its change—may we euphemistically say in its progress—to natural laws that could be inferentially ascertained, as one might learn the acceleration of development of an organ in the evolution of a vertebrate. I suppose that in theory we might have a science of the morphology of legal concepts which should show constants of acceleration, determinable from internal evidence alone. Except in such of our states as have not made it criminal, no doubt you would be permitted to regard legal changes as a continuous process, biological in its kind, predetermined by factors which might be isolated, so that its future could be read.

However, we should all agree, I fancy, that, except in the most vague and general way, nothing of the sort is practically possible. Our course is determined by so many influences woven into the whole life of society that it would be a quite hopeless undertaking by induction to plat out the future path of the law. Our task must be much less ambitious; one step must be enough for us, and for that we must look either to the rational implications of the doctrines we already profess,

or to the present aspirations, economic or social, which exist unformulated in the mind of our society. It would indeed seem that, in this aspect of your work, nothing could be more reasonable, no source would be more promising, than to consult with those who, being engaged directly with affairs, might be supposed best to understand defects in the existing law, and those changes which would meet the unvoiced yearnings of the common man. Yet, so far as changes are in the direction of consistency in the development of doctrines or rules, they involve no practical acquaintance with affairs. For example, the responsibility of an undisclosed principal may seem to you quite anomalous in the law of contract; you may think it impossible to reconcile it with the recognized principle that a contractual obligation arises only against a promisor, and that it is no answer to say that the agent had authority to speak for the principal, so long as he did not choose to use it. If that doctrine were presented for the first time, I should expect a much more competent treatment of it from teachers in law schools than from practicing lawyers or judges.

Such questions are very common; they put at stake the whole structure of the law, and I must confess to some impatience at those—among whom your own guild is not without representatives—who profess to suppose that lack of symmetry in doctrine can be interesting only to doctrinaires. I suppose that, if some divine statistician could calculate only the material loss yearly arising from the litigation and labor which a greater formal perfection in theory would avoid, it would be greater even than that unbeloved item for cosmetics and perfume which our sisters roll up to nearly a half billion dollars. I speak only of the most material considerations. How far the improved rectitude of our thinking might pervade our lives generally, who shall say? A ready acquiescence in unsound reasoning for the sake of an immediate end vulgarizes our whole rational life, and unfits us for the larger enterprises of the spirit.

Put me down, if you like, for a pedant and a prig; but at least you will agree that inconsistencies should be recognized, and that a right result reached by unsound reasons gives no assurance of permanent acquisition. In the detection of solecisms and in straightening the legal paths I cannot suppose that you feel need of us. Indeed, this portion of your work is a part of your understanding of the law as it exists.

And so it seems to me that it is only when one comes to those deliberate new steps by which we manifest choice that one may most plausibly argue that you should seek our help. We have become more frank than our forbears, who in spite of the untruth of their professions, apparent as I have said in the very system itself, continued to protest that they never departed from those precedents which with filial piety they had received from the past. Candor is seldom a loss, and no doubt we shall be the gainers; yet I must confess to a wonder whether in the end our prerogative will survive the startling frankness of our modern Rousseaus. If Demos should awake to the disparity between our profession and our performance, if he should find that, behind an obsequious protestation of docility to his supposed will, we have all along been interpolating little personal recipes of our own, who shall say that he will not arise and strip us of our powers? For myself I trust to his indolence, his stupidity, and perhaps to his distrust at bottom of his own capacities. Be that as it may, he shows no sign of discontent, and we shall go on, as we ever have, shoring up a wall here, putting in a gable there, pulling down this partition, and cutting through that window, making over the whole building by hook or crook, till as time goes on we have changed it into something new and strange, just as we built it in the first place.

In such cases we have to do with purposes and desires. We become the interpreters of the unexpressed cravings of the whole community or the arbiters between opposing groups, seekers after justice, that tolerable compromise between

conflicting interests under which each may somehow live and prosper. In a formative period of the law, such as we are told we have now entered upon, how far and in what way can we of the bar help you?

Here, too, I think you have the advantage. First, you are by circumstance and by training less prone to become partisans of the side of wealth, or at least you should be. Most legal controversy, litigious or other, concerns property. Lawyers as a rule are of the propertied class; their clients, when they are successful, nearly always are of that group, and they have seldom shown themselves, except in rare exceptions, sympathetic with the claims of other classes. The Whig and Liberal lawyers of the late eighteenth and early nineteenth centuries did, indeed, stand courageously against executive tyranny; happily, the bar has never failed to produce illustrious champions of freedom. Yet probably no more than a small proportion of the bar sided with them. If you look in such matters to our leadership, you must proceed with circumspection. The collective opinion of the bar has, I fear, scarcely more detachment, or more impartiality, than the opinion of college alumni. Can I say more?

Again, by opportunity you are better fitted to solve new questions, so far as solutions are possible at all, because they are not presented to you as avowed partisans. True, they are not so presented to judges; but the difference is vital, which allows one to give years to the study of a single subject, and expects of another some adequate treatment concurrently with the most varied distractions. Besides, while judges are as a whole honorably distinguished by an effort to think dispassionately, they have been drawn from the bar, and their social and economic traditions, honestly enough acquired, but nevertheless acquired among limited contacts, are evident enough in their choices.

While such considerations, it appears to me, put you at unquestionable advantage for any comprehensive dealing with new questions depending upon social

preferences, still you may profit from contacts with us in two ways: First, because our self-interest is in some cases apt to stimulate an excessive fertility of invention, which you may glean; and, second, because in any event your ideas must be accepted by the bar to become law at all. The fruitfulness of the first depends altogether upon the kind of question that arises. I can best indicate by two illustrations.

Let me first take up a very practical matter, which will in the end probably be determined more largely by choice than by principle. Since *Smyth v. Ames* we have become accustomed to the notion that, in the regulation of the rates of a public service company, the municipal authorities are limited by the Bill of Rights. Although such companies invest their money with the known condition that they may not exact all they can from their customers, and that their rates are subject to the determination of the public, still it has been settled that, unless there remains a reasonable profit, measured upon going rates elsewhere, property has been taken. This is, of course, not the place to consider how far the Constitution ought to have been interpreted to cover such cases, and how far cities and towns might have been left to profit from the consequences of their own follies. The important question, made very acute by the fall in the value of the dollar, is as to how the property used by such companies shall be valued.

As you all know, various theories have been adopted, all defended by persons of penetration, experience, and authority. One is that the owners of such property are rendering a service whose value can only be measured by the cost of the industrial plant which it would take at the present time to produce it. They have embarked upon an industrial enterprise, which has risks like any other, and as they are subject to loss, if through improvement in the arts their plant becomes antiquated, so they are entitled to gain when, through increase in general price levels, the service has gone up in value, or, more accurately, would go up, if any one were called upon to furnish it anew.

Another theory is that, always allowing for initial prudence of investment, such companies have in effect advanced to the municipality the sums necessary to equip a plant, and that they are not to be regarded as its owners at all. Hence, as their return is to be measured in dollars, they have no complaint that the dollar has fallen, any more than a bondholder. It would seem to follow that, in the perhaps not impossible event that the dollar should go up, investments made during the period of inflation should be allowed to earn their proper rate in enhanced dollars. A third, and I think the most generally accepted, notion is that there is no rigid principle at all, but that, under the guise of some such soothing phrase as reasonable value, all difficulties of theory shall be veiled, and embarrassing commitments avoided. Values shall in each case be determined at sums which will not too much outrage the susceptibilities of either side, by the comforting doctrine that all principles, however conflicting, shall have a just recognition. Not the first instance of man's escape from thorny questions of dialectic by a plea for the sacred spirit of tolerance, even the tolerance of contradictories.

Among these engaging possibilities I suppose those of you who specialize in such subjects have already made your choice. How far you have been governed by principle will depend upon your dispositions. But you will be likely to be influenced in any case by the result, and, if you are not, the final doctrine, if there ever is any, certainly will be. What light can you find in the sayings of bench and bar? I do not really believe that the decisions will advance you very much until, if they ever get settled, you can use them as data; that is, after the battle has been lost and won. Perhaps I am unduly skeptical or obtuse, but such certainly has been my own experience in the necessarily hasty and superficial attention I have given to the question, even though I have had to pass upon it. But from the bar you may well expect more and get more. The ingenuity of extremely capable minds, stimulated by ambition and profit, throws out new and useful ideas from

which you may select, and which you may incorporate. In this it is quite true the courts are apparently in the same position, yet it is not really so. The difference is fundamental between your chance and theirs for comparison, for concentration, and for the making of a consistent and comprehensive theory.

Here, then, is one gain that you may get from the bar. It is but one of many instances. But observe the limitations. First, it is not a question of working out the merely logical implications of accepted doctrines, as to which in my judgment you have nothing of importance to find. Second, it is not by way of learning what, upon a just valuation of contending interests, the eventual principle should be. It is only in making sure that you have not omitted to consider all the various aspects of the question which interested inquiry may illumine. Still I would not underestimate it. Ideas, like other biological forms, are for the most part born to die sterile; perfection is ruthless, and presupposes an appalling fecundity. As priests of the deity, Natural Selection, you must have hosts of sacrificial victims, and the spawning beds of the bar are not to be ignored. Do not despise the fry; you may rear one or two into goodly fishes.

So much, therefore, for concrete questions, such as stimulate the imagination of practical men. Let me now turn to the opposite extreme, to progress in abstract theory, also dependent in the end upon choice, not logic, but removed from immediate affairs. Again I will take an illustration. Since the advent of the Workmen's Compensation Acts, we have been getting used to the notion that, in fixing liability for casual injuries, the old category of fault may not be universally applicable. It is of no concern to us why that idea became so firmly entrenched in our minds. It makes no difference whether it has a merely historical provenience from the criminal law, which canalized our instinctive demand for vengeance to prevent private warfare. We may agree that it still performs a high social service in securing a regard to the interests of others. But surely we have

made a break away from it by reason of notions which are not yet finally worked out, and whose limits are unknown. It is not very likely that so promising a start will be ignored by any class politically formidable enough to have its way, if a similar occasion arises for its application.

Very well. You are going to be called upon to have opinions on the question: no doubt you already have. What shall you say? The current theory is that, when the conduct of an industry involves perils peculiar to itself, and necessarily results in injuries which can be put down as inevitable incidents to its continuance, insurance of the individuals on whom fate chances to alight is a proper cost of production, and should be borne in the end by those who demand and enjoy the service. Does the same principle apply to persons crossing a railroad track? Does it apply to the rare cases where passengers are still not protected? Does it apply to motor cars, engines of death and mayhem? Does it apply to the carriage of goods at sea? When is it proper to insist that the individual shall bear his own insurance? When are perils peculiar to an industry? Is there any general principle about it at all, or is each case to be determined by weighing the relative position of the two opposed interests, the injured individual and the persons enjoying the dangerous activity?

Obviously we have to do with a matter which goes deep into the field of legal theory and social choice. You can hardly escape all reference to it if you propose an adequate treatment of modern torts. Yet in this I cannot think that your inquiries will be much helped by anything caught from bench or bar; if so, I should be much surprised. We in practice have neither time nor capacity for that kind of thinking. We work along from step to step; we are apt to become irritated, and we are sure to become confused, when such questions are presented to us. When we speak at all, our solutions are usually as ineffectual as you would expect. Of course, I always except a few illustrious names, for now I am speaking only of general conditions. On this ques-

tion you would, speaking largely, get no assistance at all. You must work it out for yourselves.

These are two illustrations, set at opposite poles, of the kind of questions which arise in the progress of legal doctrine. You no doubt find new suggestions in briefs, in technical magazines, and perhaps in talk—approaches which you must understand to make your own consideration complete. These will vary in importance with the nature of the question, more valuable when it is concrete, immediately pressing, and active, but in no case comprehensive or adequate. Here, as elsewhere, success depends upon continuous, specialized, impartial, and systematic study, which practitioners cannot give, and which you can. I question whether you have more to gain from us here than you have in the field of scholarship, understood more narrowly. The same qualities are necessary to each; the harvest comes to him who has cultivated his garden, not to him who has done odd jobs about the village generally.

If I were to stop here, you would very properly suppose my general conclusion to be that any intercourse between us was substantially useless to you, however beneficial it may be to us. You would probably accuse me either of insincerity or else of a naïve overestimate of your powers. An unreasonable doctrinaire person I should appear, whose dogmatism took the inverted form of degrading his own order, and wantonly sublimating yours, for no apparent reason, except that you were removed from the concourses of men amid which affairs were conducted and great decisions reached. I have no such purpose, nor do I mean so much to overvalue even your functions, high though I rate them. In what I have said I have been discussing with you only the understanding of the law as it is, and the planning of its course when it seems about to move. Of static law we may acknowledge you the masters; in dynamic I have meant so far to do no more than admit that you must make the patterns.

But to turn doctrine into law is quite another thing from merely perfecting its

design. Here, as it seems to me, is where our proper duties arise, and where it becomes essential that you and we should work together, because to us is given the substantial power of accepting or rejecting new legal doctrines. I do not mean, of course, that the majority of our order can resist the set of a strong social demand; as a separate group we do not politically count at all. There is, except in rare instances, no vote of the bar, and it has not, as such, many interests to pursue which can raise it to a vocal element in the body politic. But it has none the less an unequaled authority over popular opinion in respect of changes in municipal law. We must not be deceived by the ancient gibes and grievances against lawyers. These may be more just than we care to concede; they may show that the order as a whole is now and always has been suspected of avarice and chicanery, distrusted and disliked. But when the question is of the form of the law, the profession at large is, if not determinative, at least so potent as to count more than any other single element.

Not only have lawyers the sole acquaintance with the general subject-matter, but they are best trained in discursive speech. Debate being the only means yet discovered to bring our differences to a common basis of agreement, those who practice it, even though formally and ineffectually, have an advantage which in the end outweighs all but some interest strong enough to assert itself without compromise. Such interests are rare; most claims must run the gauntlet of discursive reasoning, whatever its pitfalls. It is quite true that the press is far more powerful when true group conflicts arise. The voice of the bar fades to a whisper before the strident iteration of its catchwords. But for the most part changes in the law do not come in that form; they are interjected into a subject-matter that is unknown and unknowable to the ordinary man. They are left to be passed upon by the profession as a whole.

The organization of the American Law Institute illustrates what I mean. There the central nervous system is your good selves, substantially unaided. You frame

the proposals, shape them into a consistent whole and present them to the profession. But without limbs and muscles the body cannot move, however perfect the brain and its accessories. From the start it was recognized that to impose itself upon the community the result must have the authority of the whole profession. However little they might understand what they are doing, however superficial their scrutiny might be, it must bear their imprint to have currency.

Thus, while I agree that in invention, imagination, and comprehensive design there is no sufficient reason to suppose that we can contribute much to your work, we are the audience to which you must speak, and without whose approval you cannot succeed. Our relations are somewhat like those which should exist in an ideal democracy, where the body of the people were competent and interested. In such a society there would emerge individuals especially qualified, who would devise polity and regulate and administer affairs. But they must succeed in convincing the group as a whole, before their views could prevail. Among them they might or might not encounter critics, penetrating, though they were not learned; but at any rate the society at large, or as much of it as could speak, must be made content, whether or not their demands be reasonable.

In the same way we are your public, the only public you can have, and though you are not to expect from us much positive assistance in construction, or perhaps even in criticism, our response to your proposals will determine whether you have succeeded in converting concepts into law. We are, as it were, your experiment station, your control; it is upon us that you must operate, going so far as your hypothesis seems to warrant, and observing the responses of the organism. When Langdell, some fifty-five years ago, introduced his technique, he quite frankly based his theories upon the notion that the law was a set of principles which might be discovered by induction from decided cases. These were to the legal scholar what the rocks and mountains are to the geologist, the labor-

atory to the chemist, the magnet and the camera to the modern physicist. His teaching followed in some measure his theory, for he was apparently largely indifferent to any reason given by the judges for their results. Consistently applied, his method would have required the decision and the examination of an incredible number of cases, since ordinarily there are many principles by which the same judgment may follow the same facts. Even if the law had been a set of inflexible rules, his theory would have required, I think, some recognition of the rule that the judge supposed he was applying. I cannot think that the analogy of the inductive sciences would ever prove sound, unless perhaps in a paradise where Baron Park, assisted by a divine bar, might reach beatitude in the manifestation of a perfect judgment roll.

But the law is not a system of inexorable rules; in its most interesting aspect it concerns, if we must seek analogies, rather the behavior of a living organism than the absolutes of rigid formulas. You are dealing with a social group, on the whole self-conscious as such, plainly becoming such under your guidance. The situation is a species of a genus that covers all expressions of a common will. Perhaps it is impossible safely to say much that is concrete. Yet at least we, your public, are more promising than the statesman's. He must succeed in catching the scantiest attention of the least informed. His temptation to fall back on the common technique of suggestion is invincible. Perhaps that is all that is open to him. But your public is more sophisticated, more informed, and at least a little more attentive. You touch it in its vocation, and its response will be more controlled by reason.

However, when all is said, I very much fear that you cannot rely entirely upon that. The number of practitioners who can or will keep up with current legal discussion is extremely small. Many are engaged in business, and have no interest in legal theory, concrete or abstract. Indeed, in my own city the best minds of the profession are scarcely lawyers at all. They may be something much better, or

much worse; but they are not that. With courts they have no dealings whatever, and would hardly know what to do in one if they came there. For example, the situation has become such that I cannot quite see how a system of jurisprudence dependent upon precedent is permanently to get on at all with its best talent steadily drawn away from the precedent makers. I believe that you will have to capture your public by some other method than the appeal to reason. You will have to study the problem of a common will, not in the sense that democrats of the eighteenth century understood it, but as we are ourselves coming to understand it. We know that common opinion is not generated simultaneously in the minds of many who are reflecting upon the same facts. It arises in a directing group, small enough to have genuine interchange of ideas and common interests. The ideas will gain or lose acceptance with the group as a whole, either through the authority of the directors, or by their incorporation into other ideas already current and authoritative in the group. They will be adequately considered and accepted on their merits only by the very few, who may be competent as original critics.

All this is commonplace enough, and has got a very bad name from its abuses. You may resent my suggesting that it is a fair statement of what is necessary to the spread of legal doctrine in a learned profession. Perhaps you are right, but I think not. We reproduce pretty fairly the characteristics of any other public. Individually, we are diffident, pious, occupied, prejudiced, averse to ideas and reasoning, and suspicious of change. We must be won by some honorific apparatus, by the conversion of those among us whom the others hold in high repute. Once that is done, being human, we scrutinize, accept, espouse, and finally sanctify the new ideas. Last stage of all, we persecute and ostracize critics among whom yesterday perhaps we were ourselves.

The necessary leaders are less difficult to convert than one might think. Generally their aggressive period is past, and

they remember that after all the law is a learned calling, in which it is seemly to honor the scholar. Indeed, this has always been a part of the background of their faith, very honestly entertained, regretfully relegated to the universe of impractical aspirations. At times they will not thoroughly understand what is said, though often they have some shrewdness in detecting false wares. They are readily accessible to exalted moods, and their suggestibility is as great as that of less sophisticated persons. Just at present you, as scholars, are somewhat the mode, and a mixture of tact, assurance, and a judicious, but genuine, appeal to their reason will, I believe, make them your easy captives. With relatively few in your hands, your victory is assured; you can write what you like upon the books.

Note that I included among the necessary qualities assurance. I meant it to have a high place, for the leaders are used to it, and respect it more, perhaps, than it is itself respectable. I have seen scholars fail pitifully for its absence. I have seen them also fail as pitifully by what they mistook for it, assertiveness, which is a very different thing, and which the leaders are past masters at overriding. But this is a hard saying, for it is easier to steer between Scylla and Charybdis than to hold a just course between subservience and assertion. The recipe is dignity; behold, I will tell you a mystery.

So you will see that I do not choose to assign to us a very noble part in our common enterprise of keeping and advancing the law. To you I will ascribe the more excellent function of systematizing, of rectifying, and of clarifying what exists, so that we shall know our possessions and be able to use our tools. To you, too, I will ascribe the still more excellent function of contriving new methods, of discovering new ideas, of surveying new territory, though in this we may have at times a not insignificant part. And to ourselves I reserve a more humble rôle; we are the mass from whom proceeds moral authority over the people. We furnish the momentum; you the direction. But each is necessary to the oth-

er; each must understand, respect, and regard the other, or both will fail.

It is worth our effort to succeed. Much nonsense has indeed been written by lawyers about their work and their importance; it makes rather sorry reading, though the tendency is common enough among all sorts and conditions of men. I have been present at a meeting of brokers where I felt that after all the last perfect flower of civilization was a broker. The doctors, the soldiers, the business men, the plumbers, the grocers, all believe the same; no doubt so, also, do those last friends of our earthly course, the undertakers. Let us try to see with more objective eyes. Civilization has its roots far deeper than the law can touch; it proceeds from the irrepressible fertility of human nature. Its fruits spring from passions, desires, hopes, and aspirations. But the regulation of conduct, the standards of mutual behavior, so far as they can become a matter of formal social control, are nevertheless a condition upon all the rest. A part, an essential part, of such standards is intrusted to us. In that sense it is not extravagant for us to say that without us all efforts would be fruitless, all society impossible. Not only is order necessary to civilized life, but so is some law measurably adjusted to its needs.

If in this our common work I have assigned to you too high a place, I ask pardon of those, not here present, who, like myself, use the law as an instrument for daily needs. My colleagues at the bar and bench may, if they like, think of me as a case of delayed maturity, of chronic adolescence. I shall not complain, because in truth I have never succeeded in shaking off the deference, I hope it may not be subservience, which possessed me some thirty years since to great scholars and great teachers, now nearly all gone. No others whom I have met in the profession seem to me to measure with these men, with their insight, their learning, their patience, their kindness, their tolerance, their wisdom, and their devotion. Am I, then, to blame if, having found these qualities and these dispositions among them, I attribute to their succe-

sors their continuance? Is it unreasonable that out of the haste, the pressure, the scamping, and the half answers which make up the welter of our daily life in the law, I should look to you as the natural repositories of insight and wisdom? Foolish or wise, I am irrevocably committed to that view.

One of you may arise and protest that my assumptions are preposterous. Teachers, he may say, are quite ordinary men; they have their jealousies, their desire for shoddy notoriety, the temerity of those whose decisions involve no responsibility. They are doctrinaire; they are arrogant; they are fanciful; most of all do they need the correction of practical life. Only yesterday I came across the Thersites I was looking for, in the person of Mr. Stuart Sherman; and this is what he says: "I am acquainted with no more essentially sluggish, improvident, resourceless, and time-wasting creature than the ordinary professor of forty; nor anything more empty of adventure or hope than the future years of his career, daily to be occupied in matching his wits with the flat mediocrity of successive generations of adolescent students, and patiently waiting till the death of some better man, hardy and long-lived, allows him to slip into a larger pair of old shoes." Well, it may all be so. We are all prone to fetishes; I must confess that the scholar is mine. Doubtless, if I knew him better and at close range, on an equality, I might see with Mr. Sherman that he was, after all, like other fetishes, nothing but a rather ugly rag baby, to whom I insisted on imputing magic powers. But I propose to see him with the eyes of faith, so long as I can, and such familiarity as I gain with him has not hitherto divested him of his aura.

But, if I am wrong about him, I shall at least insist upon your equal error, if you insist upon the supernatural powers of another fetish, the Practical Man. Him I know, and he is a god of mud. I would not scorn or dishonor him; he is my friend, he is my colleague, he is me; he is the backbone of his country, he is useful, at least, he is necessary. But, if you propose his apotheosis, I shall

not attend, or, if I do, it will be with stones. Within his experience he may be admirable, but the scope of the law lies beyond that experience. His certitude is generally measured by his limitations, his assurance by his ignorance, his competence by his routine. Because he makes up your following, you must woo him, captivate him, adopt him, convince him. But, since he has no fitness for your work, do not make the mistake of deferring to his judgment, or supposing that you can learn much from him. He has his own work, like you, and sometimes does it extremely well.

So we may end by breaking each other's sacred dolls; you, the scholar; I, the man of affairs. It will be a generous

controversy, if a little absurd; each protesting that the other thinks too well of him. The honors in modesty will be easy, and each may go away unconvinced. But the law must go on none the less, and you and I, its artificers, for one reason or another, will continue to work together. The Temple of Justice we think of as especially our own, but its roof covers more than we can occupy. For Justice is no less than the Good Life, and we shall have but a small part in bringing that to pass, so far as it comes. With confidence in the greatness of our share, if not in the sufficiency of our powers, we must pledge ourselves as fellow servants in the small precinct which is allotted to us.

The Place of Research in the American Law School

By ORRIN K. McMURRAY

[Address of the President of the Association of American Law Schools, delivered at the Twenty-Third Annual Meeting in Chicago, December 29, 1925. The discussion following the President's address will be found on page 672 et seq. of this magazine.]

THE Association of American Law Schools this year completes a quarter century of life. It was organized at Saratoga, August 28, 1900; it has met annually since that date, except in 1917 and 1918, when the meetings were omitted because of the war. During this period, it has had a part in the initiation of practices and movements fraught, in all probability, with considerable importance for our national welfare. It is not my purpose to rehearse in detail these achievements nor to claim for the Association the sole merit for things that must be shared with other agencies. But briefly, and without multiplying details, it may be of interest to mention a few constructive activities in which the Association may claim some share.

In 1902, a former president of this Association, Mr. Ernest W. Huffcut, in an address before the American Bar Asso-

ciation, pointed out that more than one-half the law schools of the country required not even a high school training for entrance, while only seven out of ninety-eight schools studied required any preliminary college training. A fundamental principle of our organization is the necessity of some degree of general education on the part of those preparing for the bar. The original articles required that members should demand of candidates for a degree the completion of a high school course of study or its equivalent. Even this modest requirement was not deemed possible of strict enforcement in the early years of the century. A construction placed upon the article in 1903, under a resolution of the Association, allowed "occasional exceptions in special cases." Standards of preparation have been steadily increased in the case of our members, until now

the requirement of preliminary education is in effect two years of work in a college of liberal arts. Meanwhile, the number of law schools demanding at least two years of preliminary college study has increased from seven in 1902 to sixty-five in 1925, and the number demanding at least three years of such study is now twelve.

The three-year law course was another standard by which the Association has firmly stood since its organization. For the first five years of its existence, however, the requirement was, under the terms of the Article establishing it, suspended in its operation. To-day, as we are informed by the latest bulletin of the Carnegie Foundation for the Advancement of Teaching, one hundred forty-two schools demand the three-year course in law of all candidates for degrees, while thirty-five per cent. of the law students of the country are enrolled in schools demanding a program of work that occupies their full time for at least three academic years. The powerful influence of the American Bar Association supports the position of this Association with respect to preliminary and law school training, and intelligent public opinion rather generally recognizes the desirability of better educational standards for the bar.

From the very beginning we favored the requirement of an examination of all applicants for admission to practice law by boards appointed by the Supreme Courts of the various states, and the abandonment of the privilege of admission to the bar upon the presentation of the diploma of a law school. Almost universally, such boards have been created, examinations now required, and the former privileges withdrawn. It is believed that there has been a general improvement in the character of the examinations.

Unfortunately, many of our people are spending time and money pursuing law courses that demand no test of fitness or standard of preparation, and that fail utterly to equip them for the practice of law under modern conditions. In some cases, these so-called law courses are little more than devices for enriching their promoters.

Too much emphasis may easily be placed upon such external indications of improvement in the standards of the legal profession as are afforded by evidence of an increase in the average time for preparation demanded of lawyers. Other causes have contributed to the possibility of requiring higher demands from candidates for the bar. The diminution during the last quarter of a century in the gross number of working hours annually required by our people to earn a living wage has enabled a greater number to prolong the period of preparation for active life, has increased the annual supply of leisure, and has forced the expansion in numbers and programs of high schools, colleges, and universities, as it has of hotels, motion picture palaces, and other institutions even more definitely pledged to amusement than our colleges.

A recent research bulletin of the National Educational Association has given some statistics in respect to the expense of primary and secondary education in the period from 1890 to 1924, which indicate as well as any other facts that might be adduced the extent to which youth has been released from bondage to physical labor during this time. In 1890, the country expended in this part of its educational program \$140,000,000; in 1924, the annual budget had mounted to \$1,580,000,000. The sums devoted to higher education have increased correspondingly. More of our people's time and money can be spent on school and college than has ever been the case in our history.

Legal education, without particular merit or fault on the part of teachers, has been forced to share in the forward movement, both for good and evil. The current of events has swept us onward, whilst all the time we have imagined that our efforts were shaping progress.

However, there is some merit in moving forward with events. Without the stimulus of this Association and the efforts of the American Bar Association, and of state and local bar associations, standards of legal education and of admission to the bar might generally have remained until the present day where they were in 1900. The easiest course for the

members of this Association to have followed would have been to open their doors to all who might apply, to reap the material profits and reputation that inevitably flow from numbers.

So far as our program has been based on renunciation our position is impregnable to criticism. But must we not admit that we have yielded to compromise in the matter of educational standards? Have we really appropriated to the improvement of legal education so much of the leisure, so much of the economic power of our nation, as we are fairly entitled to, having regard to the great social importance of our profession? At most periods in the history of the English and American bar, I think it is safe to assert that the lawyer, in addition to his technical training, has had a degree of general culture equal at least to that of his clients. Do our requirements preserve this relation between the special culture of the bar and the general culture of the community? Can a university law school justify its position in admitting students with only two years of work in the college of letters, when the business world has adopted a standard demanding a college degree for its higher grades of stenographers, bookkeepers, and clerks? The only excuse is a stultifying admission that time spent in the college of arts is time wasted; that the arts degree signifies nothing. There is no very important reason why one should wear trousers, or bathe frequently—one might call dressing and washing a waste of time. The due proportions of our social life, however, require these conventions. If there is no better basis for requiring the A. B. degree from the lawyer—though I am unwilling to concede that there is none—one can rest the demand upon the fact that it is the prevailing fashion, the need of preserving a degree of harmony among the various elements of our life.

But there is a better reason. With all its faults, the college of letters opens to sentient beings with the intelligence to receive it some vision of science and civilization. As Sir Walter Scott says: "A lawyer without history and literature is a mechanic, a mere working mason; if

he possesses some knowledge of these, he may venture to call himself an architect." If the law of the more or less static society in which Scott lived demanded for its true comprehension studies beyond the technique of practice, what of a legal system in a dynamic state of society like ours? The lawyer of a former era might with fidelity to his client confine his learning to procedure, criminal law, the law of real property, a modicum of commercial law. The modern lawyer must have an adequate knowledge of the fundamentals of private law, it is true, but increasingly the activities of the state cut across those of the individual—constitutional law, conflict of laws, administrative law, a body of scientific, historical, and economic knowledge, are some of the weapons he must possess. And back of all is required the critical intelligence demanded to understand the complex conditions of commercial and industrial life, the intricate adjustments of conflicting social interests. A period of preparation that allows the lawyer to embark upon his profession at the age of twenty-five is not too long to equip him for his life work.

Some of our university law schools have recognized both the need and the opportunity, and have insisted on the bachelor's degree in arts as a prerequisite to entrance into the law school. Yet less than a dozen years before Yale University had adopted this requirement, President Hadley, in his report delivered at Yale Commencement in 1902, publicly declared the policy of that University to be against increasing the standards of preliminary education for the law. One of the great benefits from the study of the past is that we may acquire courage in meeting the problems of our own day, by considering the fears and doubts of honest and intelligent men regarding innovations that now have become commonplace. Archbishop Lee, who in 1525 wrote to Henry VIII from Bordeaux, informing him that an Englishman had just translated the New Testament and intended to import it into the King's realm, "whiche cannot long endure if this bookes maye come in," the Lord Chancel-

lor in the mid-Victorian period who had rather know that a French army was invading his country than that a deceased wife's sister's marriage bill should become law, the prophets of evil who predicted Jeremiads of woe if workmen's compensation, railroad commissions, blue sky commissions, were established—all such and legions of others testify against that “repose on a formula which prolonged means death.”

The conversion of Yale University so soon after her President's carefully deliberated utterance is a particularly striking evidence of the power of truth to get itself established. Mr. Hadley said: “We have our choice concerning the question whether we shall increase this difficulty (the difficulties of the early days of practice) by requiring a long course of secondary education prior to the beginning of professional study, or shall try to minimize it by putting the opportunity for such study within reach of the graduates of our high schools as soon as they are qualified to enter thereon. If we adopt the former system, as so many of our universities are now tending to do, we enhance the artificial difficulties, which are already great enough at best, and tend to make the professions of law and medicine places for the sons of rich men only. The bad effect of such a policy seems to me to be obvious. It is an introduction of a sort of caste system in the worst form. During the past generation we have gradually gotten rid of the traditional distinction between learned and unlearned professions. We have come to the full appreciation of the fact that the work of the manufacturer and the financier, the engineer and the journalist, involves the same sort of ability and character, and carries with it the same sort of social privileges and responsibilities that are involved in that of the lawyer, the physician, or the minister. The gain from this source has been so great that it has been sufficient to offset some of the dangers by which democracy has been menaced. It would be a serious mistake for society if our best universities by their action should attempt to undo any of this work, or impose any artificial

restrictions which should single out one group of professions as the peculiar property of those who have enjoyed inherited wealth and collegiate education.” The answer to the argument is that, ten years after it was made, Yale Law School, under Mr. Hadley's presidency, rejected it in toto.

Besides standing in the vanguard as a defender of standards in legal education, this Association has to its credit such accomplishments as the publication of the *Select Essays in Anglo-American Legal History*, the *Continental Legal History Series*, and the *Legal Philosophy Series*. The outlook both of the bar and of the law school teacher has been materially broadened by the opportunity afforded by these publications to become acquainted with some of the best juristic thought of the world. Also closely interwoven with the history of the Association are the establishment of the Council of Legal Education of the American Bar Association and the creation of the American Law Institute. If not the efficient cause in an Aristotelian sense, it may lay some claim to be a contributing cause of the existence of these important agencies.

In the latest attempt by the bar to solve some of the problems of our jurisprudence, through the efforts of the American Law Institute, not the least interesting feature has been the recruiting of law teachers for aid in the task. The law teacher, thanks in some slight measure to this organization, has become conscious that he belongs to a distinct profession, and the bar and the community have also become aware of him as a contributor to the evolution of our legal system. At the same time he has been recognized by his university confrères as possessing value in the life of the university and to a certain extent engaged like them in the hunt for facts and their possible relations. The broadening of his interests has been reflected in the annual programs of the Association. The great controversy, *Case Method of Teaching* versus *all Persons*, has long since been laid on the upper shelf where the classics repose. Even the problems of the curriculum—Precisely where shall Agency or

Equity be taught, and for how many hours, or shall they be taught at all—by no means awaken the enthusiasm they evoked a dozen years ago.

An increasing number of the law teachers of the present have shifted their interest to that portion of the field of jurisprudence that deals with the relations of the law to actual life. They want to know how the law works, rather than how this rule or that doctrine harmonizes with other rules or doctrines laid down by judges and text-writers, or how the rule or doctrine came to be what it is. Indeed, a tendency may even be noted to peep over the juristic fence into territory belonging to their neighbors. In other words, a curiosity for discovery is awake. The universities must provide in some manner that the enthusiasm may be turned to the service of discovery.

In general, the law school has been oblivious to the value of investigations carried on for their own sake, and has afforded little encouragement or opportunity to teacher or student to embark upon such tasks. Both are held to rather strict rules with reference to hours of teaching and units of credit. Neither leisure nor physical means are provided for the inquisitive searcher after new relations or new methods. Existing curricula condition the productive activities of our teachers. To be sure, there have been some exceptions, and a few printed volumes attest the value of the modest experiments that have been attempted. Our law reviews also occasionally contain articles transcending current controversies over recent decisions and dealing in the spirit of truth-finding, with the broader and more fundamental aspects of juristic science. But, in the main, research in the law has received little encouragement.

One must not overlook the great treatises on special branches of the law that have been produced by our legal scholars, chiefly within the law schools. They have contributed much to our legal development. But in the main their production has involved a utilitarian end—to make available the results of judicial decisions for use by the bar in the work of litigation and in counseling clients. In the

main, they have not attempted to study the interrelation of law and the social structure, nor to develop critical methods of approach and investigation. Moreover, the law schools have not in general recognized that the production of such works is one of the purposes for which law schools exist.

In a sense, of course, the lawyer, and even more the law teacher, is constantly engaged in research; he deals with original sources, and he is immensely diligent in their analysis and study. But his investigations are nearly always directed toward an immediately practical purpose—the lawyer's toward winning his case; the teacher's toward organizing and simplifying his material. The free play of intelligence upon the materials of jurisprudence, this is the sort of thing for which our law schools with their rigid teaching programs have allowed little scope. And the co-operative spirit, which has furthered the advancement of science to such a high degree, has been almost wholly absent from such investigations as have been made independently by legal scholars.

It is easy to suggest reasons for the lack of development of the law school on this side. First and foremost, the naïve philosophy of the layman, maintained, indeed, by many intelligent lawyers, regards the law as a field in which discovery is impossible, since it is something given or revealed, complete and finished. "Poor will be the judge," says James C. Carter, "who does not acknowledge that he is a seeker among divine sources for pre-existing truth." If that be so, there is no need for the encouragement of the sort of research that has made possible the physical and biological sciences. Second, and closely related with the former reason, an instinctive conservatism, natural to every profession and reflected in public opinion, has engendered the fear that free research in law, as indeed in any of the social sciences, may ultimately have consequences detrimental to the existing social status. But the reason that has chiefly prevailed in preventing the university school of law from developing a program of research comparable

with those developed in history, economics, psychology, or natural science, may best be found in the nature of the law school and its problems during the last half century—the period of the birth in our country of the scientific spirit.

It is not necessary before a group of law teachers to dwell upon the history of the American law school. The medieval cleft in legal education that existed between Universities and Inns of Court produced a tradition that was received by our people with the common law of England. That law had been in the main the work of a self-governing co-optative group, which bore the burden of preparing its own prospective members. Corporately it had sadly neglected this obligation, but its duty of educating future barristers was still carried in England by individual members of the profession, who received pupils. Though the self-governing bar disappeared in our states, the idea persisted that the training of lawyers might reasonably be left to the bar. Indeed, the necessities of pioneer communities could scarcely provide other means for a legal education. The pupils of the English barrister became the students of the American attorney. In general, the latter felt no obligation toward the young men in his office, between whom and himself there was usually lacking the cash nexus that was found in England. Occasionally, however, an American lawyer would receive students who paid fees; with such, it became a natural matter to transform a group of such students into a school. The law schools, such as they were, of fifty years past, were incurably affected with the professional point of view implicit in their origin.

When our country became conscious of the claims of scientific study in the '70's of last century, and girded itself for the task, it found the law schools almost exclusively in the hands of the legal profession. The notion of sweeping the law school into the orbit of the University, or organizing graduate work in legal science as it was organized in history, or philosophy, or natural or political science, very naturally fell outside the plan of the

University builders of that era. They took the popular appraisal of the lawyer and of his work, and organized the scientific activities of the University, omitting law from the circle. Frequently, indeed, the law school was loosely connected with the University—sometimes even controlled by an independent body of trustees.

It is obvious that the progress of the law schools of the country during the last generation has been closely bound up with the development of the Universities. The school buildings are now usually found on the University campus. A differentiation has occurred between the legal practitioner and the teaching profession. To use an old expression, the law faculty has become a learned faculty. That the complete domestication of the law school in the University may lead to results fraught with consequence to the development of our legal system I should be the last to deny. Fortunately, it is not necessary to predict the future. It may be that we shall have one law of the University and another law of the forum, as in old Germany; it may be that our law will lose the toughness of the law taught in the Inns of Court before the English renaissance. One's views as to the desirability of this or that detail in organization or curriculum may be consciously dependent upon his historical enthusiasms, but the final result will be determined by forces which we can but moderately control or direct.

The great improvements in legal education during the last quarter of a century seem to indicate that the time is auspicious for the University Law School to begin a broadening of its field, by welcoming independent research on the part of its faculty and advanced students. This means, of course, the provision of physical opportunities (libraries, rooms, materials) and of proper clerical and other assistance; it means, also, the release of the investigator from too rigid a curricular program. Above all, it involves the eagerness and enthusiasm of the workers. It is not a vain hope that at the bar, as well as in the teaching profession, will be found men willing and able to carry on the work.

That a great task lies ahead in the patient study of legal rules, doctrines, and institutions from every possible angle of approach is apparent to every man who thinks. Take such questions (by no means among the most important awaiting solution) as those involved in the treatment by society of negligent injuries. The increasing volume of such injuries is becoming a matter of significance in our social economy. Has the law met the problem? Plainly an investigation on such a topic carries one out of his library, though that must be ransacked for material to discover the experience of others. The actual results of negligence litigation must be studied, not only from the statistics of lawsuits, but from the testimony of those who have participated in them. The expenses of public service companies and others must be analyzed. Safety devices, police control, a hundred matters, must be investigated. One can conceive the application of the mathematics of probability and the results of psychological experiments to aid in formulation of rules of behavior. And what is true on such a subject is equally the case with every problem of adjustment of law to a changing society.

What an advantage it would be to such an organization as the National Crime Commission, or the American Law Institute, if our country had possessed for many years such an institution as Von Liszt's Seminary in Criminal Law, with its hosts of experts, versed in this or that phase of the general problem. Permit me to quote from Professor Lorenzen's description of that seminar, given some twenty years since, for the reason that it affords a model of what might well be undertaken in our own country:

"It occupies about half a dozen rooms at Charlottenburg, and has a library on criminal law containing over fifteen thousand volumes. The Seminary meets every two weeks, at which time a member gives an address or report upon a subject upon which he is working. A discussion follows, which is sometimes continued in an extra session. The special object here is to give to the student a chance to profit by the criticism of the

instructor or fellow members before he gives final form to his paper. In this way, his attention is often directed to a point overlooked. He is led to re-examine more carefully the positions taken, and perchance to change them upon more mature reflection. Since the winter semester of 1903 to 1904, the increase in the number of students desiring to do seminary work has caused Professor Von Liszt to divide his Seminary into sections, seven in number—the dogmatic; the criminal psychological; the criminal statistical; the criminal political; the philosophical; the historical; and the one on criminal procedure. These hold sessions for discussion and study. Several of them have undertaken larger pieces of work. One of them, for example, has collected all the material, legislative and other, concerning diminished responsibility for crime; another has collected, arranged, and published everything written in recent years on the general principles of criminal law in connection with the movement for the revision of the present German Criminal Code. A great many of the articles, prepared in the Seminary, appear in the *Review of Criminal Law*, of which Von Liszt is one of the editors; others appear elsewhere in reviews or as independent publications. In 1903 the productivity of the Seminary had reached such a degree as to justify the publication of an independent review by the Seminary, called 'Transactions of the Juridical Seminary in Criminal Law,' in which the more able papers are printed. Traveling fellowships have been awarded by the Seminary from time to time for the study of problems in criminal law or criminal procedure abroad. In this and other ways the members of the Seminary are encouraged and stimulated to do their best."

If the necessary development of our law is to proceed with order, we must have many working in the field, each contributing his bit. Possibly nine-tenths of the theses produced in our Universities purporting to be pieces of original research are worthless; possibly the encouragement of so-called research has resulted in attracting mediocre men, enter-

ing the field of scholarship and teaching. But even mediocre men may contribute something to the development of knowledge, and if one-tenth or even one-hundredth of the annual crop of theses contain some germinating seed for scientific progress, the waste involved is amply paid for.

It may be urged that the work of research in law may be left to Foundations and Institutes. They have their place, and an important place, in the intellectual and social structure. But the divorce between teaching and research must not be permitted, if the most fruitful results are to ensue. We must preserve the reproductive capacity in learning, and that can find its protection only in an association of scholars teaching as well as learning.

The means for putting into effect a modest program are at hand. All that is needed in many of our schools is the release from a part of their teaching obligation of a few members of the faculty, who indicate a desire and a capacity for research work, and a corresponding release of some of the ablest students, who may desire to undertake such work, from a part of their program. In our rigid and formalistic educational system, it may be that this cannot always be accomplished, but I believe that in many places in our country it is possible, and, where it is possible, can there be a question as to its desirability?

Suppose, as an experiment, that one-half of the regular curriculum of the last year of the law school work were given up by ten per cent. of the students, and one member of the faculty were relieved from all save one course, that he might conduct a seminar in industrial law, or in procedural reform, or in problems in corporate reorganization, or in the organization and financing of community apartment houses, or in the legal history of a state, or in any other topic that might be selected, would or would not the morale of that school be improved? Suppose that these able students were thus forced to omit evidence and trusts and corporations from their law school course in exchange for the efforts put forth in

their seminar, would the sacrifice be too great for the benefits derived? I admit that the ideal seminar would be constituted of men who have finished their professional courses, and who, after some experience in the world as lawyers or teachers, desire to pursue some special studies.

In time—and possibly within a very short time, if we can judge by the manner in which students of law, without compulsion, have flocked to schools demanding the highest standards of admission—graduates would enroll themselves in the seminars, not necessarily for credits in units or degrees, but because of the opportunity to study thoroughly, and in association with other men of ability, some outstanding problems of law. I believe there is a body of such men in nearly every large center of population, and that many of them could find time for advanced studies leading to deeper insight into the problems of the law. Indeed, even more than the medical profession, the legal profession seems to have a unique potentiality for such sort of development. The admission of members to the seminar must lie in the hands of the teacher advised by the other members. Freedom, indeed, must be its very life.

I do not advocate a particular program. Indeed, it is of the essence of the idea that each investigator possess freedom to develop his program independently. The central notion is the creation of groups of investigators, guided by legal scholars, or by teachers who may evolve into legal scholars. In some cases, it may be desirable to relieve the investigator wholly from the conduct of professional courses. Generally, however, it would be more feasible to gather together a small group, consisting of advanced students, and, if possible, of practicing lawyers and faculty members, under the guidance of a member of the faculty best prepared or best disposed to undertake the conduct of the studies—in short, a permanent round table.

During the last generation, because the opportunity and the will were present, we

have been able to develop professional schools with high standards of learning and with high ideals. Is it not possible that we can establish foci of creative activity, which, within the next generation, will serve a great purpose in the process

of aiding in the reshaping of our law to the conditions of our national life? To me it seems that the evolution of the law school into a true place of research is inevitable, if only we address ourselves to the task.

The Evolution of Remedial Rights

By EDSON R. SUNDERLAND

[Address delivered at the Twenty-Third Annual Meeting of the Association of American Law Schools, Chicago, December 31, 1925.]

I.

THE progress of civilization has always realized itself in the development of specialized social functions, and this process has produced a highly complex organization of interrelated social groups. Each of these groups has definite interests of its own, which always appear more or less antagonistic to the interests of other groups, so that the history of society has consisted of a perpetual struggle of group against group for power and privilege.

No other group occupies a position in the social structure of such potential power as the legal profession, for it controls the operation of the laws to which all groups are subject. The physician deals with a single social group, the physically unwell; the clergyman deals with the communicants of the church; the banker deals with those who employ credit; the teacher with those who wish to acquire wisdom. But the lawyer holds in his hand the worldly destinies of all.

The influence of the legal profession is increased by the further fact that it is the most highly unified of all the social groups. This results from the circumstance that it employs a standardized technique, which every member is compelled to use. In the Middle Ages the same thing could have been said of the clergy. Ecclesiastical practice tolerated

no departure from approved rituals and sacraments, and the uniformity of ceremony contributed much to the solidarity of the church as a social institution. With the disintegration of Catholic supremacy, this uniformity disappeared, for rival ecclesiastical groups, differing as widely in their ceremonial forms as in their theological doctrines, multiplied and prospered. But in the field of the law no such development has been permitted to occur. The state has insisted upon keeping control of the mechanism for administering justice, making it a public monopoly, and it has pursued the policy of rigidly prescribing rules to govern the practice of the courts. All the lawyers in the state are therefore forced to become familiar with the same rules of procedure, to follow the same sequence of steps, to use the same technical language, and to think in the same logical formulæ. Such uniformity in training, conduct, and ideas could not fail to produce a class with a highly developed group consciousness.

The monopolistic nature of a technique prescribed by law has, moreover, the tendency to produce resistance to change. Those who employ it compete with one another only within the limits of the established rules. No one is allowed to outbid his competitor by offering a new remedy, or by using a superior procedure.

The question of new rules, therefore, never becomes a professional problem in the strict sense of the term, for it is normally outside the scope of professional activity. Individual success in practice suffers no apparent loss from the use of a defective system, because the handicap operates equally upon all competitors. Accordingly immediate self-interest offers no convincing reason for leaving the familiar paths and undertaking a struggle with new problems. Furthermore, the lack of experience with any other technique makes it difficult for the bar to see defects in the current system, or to appreciate their seriousness, if pointed out. Not until inefficiency reaches a point where it threatens to drive away business does the unreasoning group instinct scent danger and prepare to assume the burden of inevitable reforms.

The problem of group adjustment is, therefore, in this instance, a peculiarly complex one. Compare it with the simple problem of the medical profession: Legislation does not in the slightest degree prescribe the methods to be employed by physicians or surgeons. Established practice crumbles instantly before a new discovery. Regularity counts for nothing in the face of actual results, and professional ingenuity knows no limits, except the limits of the human mind. Every member of the group has a direct, constant, and powerful incentive to strive after new processes, and to employ them at once in the service of society. The community of interest between the medical group and the public is so obvious that, aside from a few prohibitions against malpractice and incompetence, the adjustment is almost frictionless.

Can a parallel adjustment between the bar and the public be brought about? Is there in the mutual relations of these social groups a sound basis for the evolution of remedial rights? If so, where is the motive force? Will the public take the lead, and either devise a technique of its own, to be forced upon the bar, or compel the bar, in order to escape that calamity, to co-operate with it in the development of a more adequate system of practice? Or will the bar take the

lead, and with a social vision which recognizes the ultimate identity of interest between the contending groups admit the justice of popular complaints, emancipate itself from the petty tyranny of stereotyped ideas, and cheerfully assume whatever temporary burdens may result from a reconstruction of procedural processes?

England has just completed a century of struggle for procedural reform, and it is to the energy and determination of the public, and not to the leadership of the bar, that the credit for the present English practice is due.

II.

Nothing in the legal development of modern society is more dramatic than the long war of liberation waged in England against the tyranny of inherited traditions. The nineteenth century opened upon a legal system which had inspired the most extravagant eulogies from the bench and bar. The sonorous and resounding phrases of Blackstone still echoed throughout the realm, extolling "its solid foundations," "its extensive plan," "the harmonious concurrence of its several parts," and "the elegant proportion of the whole."¹ Legal writers still found it difficult to speak with moderation of a system "so wisely contrived, so strongly raised, and so highly finished."² The refinements of its logic were demonstrated and defended by a group of legal authors who doubtless believed that they were dealing with a procedure based upon principles of ultimate validity—Williams in his learned notes to Saunders' Reports, Tidd in his practice in the King's Bench, Stephen and Chitty in their classic works on Pleading, and Lord Redesdale in a book on Equity Pleading which was considered so perfect that, in the words of the American editor, "the adding of matter to this treatise would be like painting refined gold." And as the political head of the legal cult, Lord Eldon sat on the woolsack for almost a generation, keen, alert, steadfast, tireless, fearful of innovations, devoting all the resources of

¹ Commentaries, IV, p. 443.

² Id.

a powerful and technical mind to the preservation of the current practice of his day. Against the chorus of professional praise had been raised the almost solitary voice of Bentham, but it was a voice crying in the wilderness.

Only gradually did the British people awaken to the real character of the crisis which was approaching. When the *Edinburgh Review* was launched in 1802, judicial procedure was matter of no critical interest whatever to the general public. In its fifth year it threw a stone into the placid pool of public indifference by publishing a long article on reform of the Court of Session in Scotland. This important subject, said the reviewer, has attracted so slight a public interest that, although a widely circulated resolution of the House of Lords has proposed an experiment greater than any "projected since the days of Justinian or Alfred," the total net result has been the appearance of three small pamphlets. It was with the hope, he went on to say, of stimulating some public response to the urgent need of reforming legal practice that this article was written.³ The hope of the reviewer was not disappointed. By 1824 the same *Review* was able to observe: "Legal matters are at this time among the most fashionable topics of conversation. All the newspapers abound with reports of trials, and all their readers freely talk over both the merits and the points, the form and the substance, the preparatory process and the ultimate decision."⁴ Six years later we find it asserting: "The all-important subject of judicial reform has, of late years, happily occupied almost the undivided attention of thinking men, in every part of the country."⁵

It was doubtless with grave misgivings for the future that Lord Eldon laid down the chancellorship in 1827, for it was obvious that the comfortable optimism of the legal profession had rough weather ahead. The technical refinements which obstructed justice, the multiplication of useless and interlocutory proceedings, the delays which were running from years

into decades, and the centralized monopoly of the privileged London bar, were being viewed by the public with serious concern as a menace to the stability of society. The issue, at first only vaguely felt, was becoming clear and urgent. The law must be reformed, because an efficient court of justice was the ultimate and only guaranty of civil liberty. Upon the effective administration of the law rested the security of the state. "It has been well observed," said a writer of that day, "that all the costly apparatus of government—the crown, the navy, the army, taxes, Parliaments, powers and privileges—are really of little other use than to maintain the twelve judges in due authority at Westminster."⁶

The striking characteristic of the British revolt against the apotheosis of legal formalism was its popular origin and support. The *Edinburgh Review*, which seems to have led the way, continued for seventy years to argue the cause of law reform in issue after issue, with a tenacity of purpose, an unfaltering optimism, and a masterly ability which commands our unstinted admiration.

The Westminster *Review* began publication in 1824, and although it, also, was a general magazine for the lay public, in its first number it launched an attack on the Court of Chancery as a notorious scandal, and took up a critical study of the rather undramatic subject of special juries. In its first ten years it published twenty-eight articles on various technical subjects in the field of procedural law, attacking and explaining with astonishing boldness and skill the anomalies in the jurisdiction of courts, the absurdities in the rules of evidence, the atrocious technicalities of pleading, the improper use of juries, specific, preventable causes of delay, the scandal of judicial patronage, the extortionate expense of litigation, and the shocking want of education at the bar. For half a century this remarkable journal was an unwavering champion of the public in its struggle for judicial reform.

In the same way the *London Spectator* and the *Saturday Review* took a strong

³ January, 1807, pp. 461-492.

⁴ March, 1824, p. 171.

⁵ July, 1830, *Law Reform—District Courts*.

⁶ *Edinburgh Review*, March, 1827, p. 459.

position in support of the movement for reform in judicial procedure, patiently explaining facts, clearly discussing principles, and courageously advising appropriate action.

Even such a magazine as the Illustrated London News found itself drawn into the fight. In its opening number, in 1842, by way of announcement of editorial policy, it said: "In keeping our eye upon the action of daily life, we shall most narrowly watch the administration of justice. The decisions of our magistrates, we at once declare, shall be branded, if they be not just. Coroner's inquests, and the civil and criminal trials, will command no small part of our attention." Faithful to its word, it ran from two to four and a half columns of court news every week, with frequent editorials and leading articles on the maladministration of justice.

Still more significant was the course of the London Times. In 1825 it was a small newspaper, running only twelve columns of reading matter, but even at that early stage of the war against judicial abuses it considered the subject so important, and presumably so interesting to its readers, that it devoted one-third of its entire space every day to reporting the doings of the courts. By 1850 the Times was giving its readers a little over thirty columns of news, and of this from six to eleven columns were filled with daily reports of the law courts. These reports were not sensational, but gave a simple and readable account of what was actually going on in the various courts of the kingdom, familiarizing the reader with the personality and professional activity of the judges and lawyers, with the nature of the procedure, the delays, the costs, the technicalities, and the net accomplishments of the system. For a hundred years the Times has maintained this extraordinary service, so that the English layman has probably been better acquainted with the work of the courts than the layman of any other country in the world.

Nor did the Times rest content with news reports on the administration of the law. Its editorial columns thundered against the abuses of the system and the

beneficiaries of those abuses. Year after year it kept public attention fixed upon the vital function of the courts in a free country, and in the name of the people warned the profession and the government that resistance might postpone, but could not defeat, the demand of the people for an adequate system of justice. By 1850 the Times was devoting more editorial consideration to judicial reform than to any other subject of public concern. In the single month of December, in that year, for example, it had seven leading editorials on the administration of justice, averaging nearly a column and a half each, and other months duplicated that record. In the course of the long struggle it published literally hundreds of columns of editorial criticism of legal procedure, in addition to hundreds of columns of reports of parliamentary debates upon the innumerable bills by which the public attempted to secure, and the legal profession to prevent, a thorough reconstruction of remedial law.

III.

One is amazed by the violence of the attack which the public directed and maintained for at least two generations through the press. It was not only a war against legal abuses, but a class struggle against a profession which was believed to be responsible for them.

Although, said an early reviewer, "the delay, vexation, and expense of English judicature" are very largely avoidable, yet "so successful have been the artifices of lawyers that Englishmen have hitherto almost universally believed * * * the assertion of Sir William Blackstone that these inconveniences are the price we necessarily pay for the benefits of legal protection."¹

The technicalities of pleading were laid to the selfishness of the profession. "Not a formality is there," says a reviewer in 1826, "which serves not as a pretext for charges, and scarcely a moment of delay which is not contrived to minister either to the ease or the profit of lawyers, if not to both. * * * Every inconsis-

¹ Westminster Review, Vol. 4, 1825, pp. 60-83.

ency, every groundless distinction, leads to uncertainty, and every uncertainty to lawsuits, accompanied by harvests of fees for lawyers; in short, there is, perhaps, not a single imperfection in the law by the existence of which lawyers are not in some way or other benefited."⁸

Shall England, asks the Edinburgh Review, sit still and watch other nations surpass her in their legal systems? "It cannot be so forever. Old men may indeed stand in the midst, and for a season stay the plague of improvement. But their night is far spent; the day is coming, when there must be a vigorous and unsparing * * * revision * * * of the whole administration of justice in this country."⁹

The timid proposals of Lord Brougham, it was charged, were calculated to make the evils only worse, his chief remedy being an increase in the number of judges; the whole legal system was alleged to be a plan ideally devised for robbing the public for the benefit of the lawyers; and no reform, it was boldly asserted, would be worth while which left the profession in possession of its power over suitors.¹⁰

Of the character of the bar in 1833, a reviewer says: "Imagination, vigor of intellect, eloquence, large views of jurisprudence, or bare knowledge of civil law and the laws of other countries—even the customs of their own country, and the laws of Scotland and Ireland—are a dead letter to the greater number of English lawyers. They are mere technical hacks. * * * The truth is that the bar, by dint of its monopoly, is a century behind all others that call themselves liberal professions."¹¹

The common-law bar was declared by the Law Amendment Society to "produce with difficulty a crop of fifteen judges of adequate or nearly adequate capacity, and the demand for a sixteenth would be beyond the productive energies of the soil."¹²

Of the legal education of the Inns of Court, a reviewer says in 1829: "Notwithstanding their immense wealth, not one single legal notion, not a bare definition of a law term, was ever conveyed to one individual by their means, or at their expense, for the last century; nor is there the slightest chance that there ever will be, unless a strong pressure be applied from without. * * * The evils arising from the total want of legal instruction are great and manifold. They all fall upon the people at large."¹³ And when the benchers of the Inner Temple, perhaps to confute this charge of indifference, announced a course of lectures on Jurisprudence by Professor Austin, the Westminster Review sarcastically remarked that "the word (Jurisprudence) is not in Tidd or Chitty; and it would be difficult to show that a knowledge of its meaning would bring in one additional guinea. This is so well understood that Mr. Austin at his last lecture had only five auditors."¹⁴

We have been inclined to discount the novelists of the time, such as Samuel Warren, who satirized the iniquities and technicalities of an ejectment suit in his "Ten Thousand a Year," and Charles Dickens, who exposed the Court of Chancery in "Bleak House," as representatives of current popular opinion, assuming that they exaggerated the situation under a natural instinct for dramatic effect. But it is evident that the serious reviewers of that period held opinions quite in harmony with those of the writers of fiction.¹⁵ Jarndyce v. Jarndyce was guaranteed by Dickens, who was himself a lawyer and a member of the Middle Temple, to be a truthful picture of an actual case, which could be more than matched by others equally authentic, and the chancery judge who assured him, as one of a company of some one hundred and fifty men and women, that the Court of Chancery, though a shining subject of much popular prejudice, was almost immaculate,¹⁶ fitted very well into the pic-

⁸ Westminster Review, July, 1826, p. 40.

⁹ Edinburgh Review, March, 1827, pp. 461, 482.

¹⁰ Westminster Review, October, 1829, pp. 447-471.

¹¹ Westminster Review, July, 1833, p. 66.

¹² 1 Sol. Jour. (1867) p. 72.

¹³ Westminster Review, January, 1829, pp. 85-93.

¹⁴ January, 1836, p. 196.

¹⁵ Supplement to Encyclopedia Britannica, article by James Mill, 1828.

¹⁶ Preface to Bleak House.

ture which the public had drawn of the judicial establishment.

So determined were the people to have courts equipped to administer justice, and so aroused had they become over the obstructive tactics of the legal profession, that even the *London Times* did not hesitate to say: "If the minds of legal men are to be forever perversely directed to the past, if they will not divest themselves of old prejudices, and accept new views and ideas suited to the exigencies of the present times, the public must be content with the attempts made by laymen to improve a system which cannot longer be permitted to remain in its old and mischievous condition. The law and its administration constitute the crying evil of the day. * * * The patience of society is at length exhausted, and desperate remedies will be attempted in the hope of getting rid of the burden, if well-considered and rational plans are not proposed by those who have made the science of law and that of legislation the subject of their special study."¹⁷ "Let the * * * bar look to it in time."¹⁸

IV.

From the side of the legal profession the struggle may be followed through the pages of the law journals. The *Law Magazine* was founded in 1828, as a defensive measure for rallying the bar against the impending storm. The leading article in its first number was a brazen and undiscriminating panegyric of common-law pleading, in which the criticisms of James Mill and the *Westminster* reviewers were referred to as "such ribaldry" that there was "no manner of reply which a well-bred person could employ."¹⁹ The *Legal Observer*, established in 1830, and the *Jurist*, in 1837, joined forces with the *Law Magazine* in defense of the traditional privileges of the law. None of them at first realized the extent of the popular revolt, nor the intensity of public feeling, and were inclined to treat the matter rather cavalierly. Annoyance over the impudence of lay criticism grad-

ually changed to resentment, as the attacks on the profession increased in frequency and bitterness, and this in turn gave place to serious apprehension and alarm. Even the Lord Chancellor seemed to have deserted the profession and gone over to the enemy.²⁰

In 1843 the *Law Times* was organized as a new ally of the hard-pressed forces of the bar. Its first editorial revealed the situation and defined the issue. It was entitled "The War against the Lawyers," and was a rallying cry to the profession to awake to the dangers which pressed on every hand. The emoluments of the bar were seriously threatened, and energetic means of resistance must be promptly devised.²¹ Other appeals followed, in which the two branches of the profession were besought to forget their fancied differences, for, says the *Law Times*, "surely lawyers have enough to do to repel the attacks of the common enemy, without turning their fratricidal hands against each other."²² "No time is to be lost, if they will not submit passively to be ruined."²³

The defensive campaign was not an impressive exhibition of good strategy. But the position occupied by the profession was intrinsically very weak—much weaker, indeed, than most of its members were possibly able to understand. Many of the arguments advanced to meet the broad grounds of public complaint were striking instances of the unintelligent rationalizing by which instinctive or inherited prejudices are given a formal justification. Perhaps the greatest scandal in the whole judicial system was the dilatory procedure of the Court of Chancery, yet the *Legal Observer* disposed of it with a wave of its wand. "For the last 250 years," it said, "the complaints against the present system have been continued and unvaried," yet "the Court of Chancery and its machinery has remained nearly the same in every particular. It is obvious, therefore, that * * * the supposed evils * * * cannot, after

¹⁷ *London Times*, December 24, 1850.

¹⁸ *Id.* July 29, 1851.

¹⁹ 1 *Law Mag.* 32.

²⁰ 7 *Legal Observer* (1834) 321.

²¹ 1 *Law Times* (1843) 15.

²² *Id.* 65.

²³ *Id.* 132.

all, have been very enormous, or they would not have been thus endured."²⁴ The delays in the Queen's Bench were shown to be a blessing in disguise. "What an incalculable benefit it is," says the Jurist, "that, in the length of time which must elapse before a cause can be decided in that court, passions have time to cool, the angry feeling that prompts to litigation may subside, and, if there are some obstinate spirits who are disposed to fight to the last, their ability to carry on the warfare is put an end to by the ruinous expense of the long-protracted contest."²⁵

Such reasoning was worse than useless, and only demonstrated the bankrupt state of the profession as a social force. Hardly less pathetic was the argument for more judges. This was the standard solution for every judicial emergency, and was one which lawyers could always suggest with sincerity and contemplate with equanimity, for it required no change whatever in familiar practices and offered the additional attraction of more judicial appointments. But the British public, with its strong business sense, refused to believe that the true remedy for defective machinery was the employment of more engineers to keep it going.

In 1857 the solicitors, seeing their own branch of the profession threatened with the same fate which had overtaken the bar, organized for defense and established the Solicitors' Journal, which announced its purpose to watch over the interests of the solicitors and to urge upon the Legislature and the nation their just and reasonable demands.²⁶ Presently, it too, was in the midst of the fight, noting the attacks of the lay press and replying hotly in kind. "There is a limit," it declared, "to the license to be allowed to the press; and * * * we have a right to protest against the systematic defamation which the Times, above all other publications, delights to indulge in, whenever law and lawyers are under discussion."²⁷

Reforms came gradually, by means of an incredible number of small bills and amendments, which not only familiarized the profession with new ideas during the slow course of the debates, but introduced actual changes at so moderate a rate that the bar became reconciled to one reform before the next was forced upon it.

As fast as changes were actually adopted, the profession seems to have loyally undertaken to put them into operation. Nothing, for example, was so universally and so fundamentally disliked by the bar as the establishment of county courts, which struck at the heart of the London legal monopoly. Every law magazine fought it for years with every ounce of strength it possessed, tenaciously and bitterly. And yet when the bill was passed, creating a county court jurisdiction under £20, the Jurist said of the new courts: "We have no doubt that they will ultimately prove a great boon to the small trader, and in many cases to traders of considerable business."²⁸

And so it was with the various traditions for which the lawyers fought. One by one they fell before the determined assaults of the public, but with their fall came the proof and the realization of the emptiness of their pretensions. As demands for reform spread, and their ultimate success became clear to the profession, self-interest urged participation in framing the rules for their operation. After all, the lawyers would have to use them, and no one would suffer so much as they from a crude and unworkable procedure. The line of resistance, therefore, varied. A few reforms, which might be defeated, were to be fought to a finish; those which were inevitable were to be brought under professional direction and control. Co-operation thus became a more effective method of self-protection than opposition. In 1850 the House of Commons passed the second reading of the County Courts Extension Bill with a staggering majority. It was an unexpected blow to the bar. But the Jurist said: "What is it that * * * the lawyers are afraid of? We will answer for

²⁴ 2 Leg. Obs. (1831) 401.

²⁵ 2 Jurist (1838) 73.

²⁶ 1 Sol. Jour. (1857) 1.

²⁷ Id. 153.

²⁸ 11 Jurist, part 2 (1847) 109.

them. They are afraid of a legal revolution, and, without power to avert it, they are letting the conduct of it slip from theirs into other hands: * * * To sustain the actual (present) system * * * is impossible. To remodel it * * * may be possible, if the profession will, at this juncture, stand forward to lead, not to obstruct, the reform."²⁹

The same view of the conveyancing crisis was taken by the Solicitors' Journal in 1857, when it said: "A change which many people call, rightly or wrongly, a reform, is necessary and inevitable; and if the profession will not lead this movement, the only alternative will be to follow it."³⁰

This was sound advice, and represented the best opinion of a profession which had known nothing but defeat for a generation. In following it the lawyers were only submitting to the fundamental laws of social adjustment. As a result they presently found themselves enlisted with the reformers, presenting conservative views with which to temper the enthusiasm of the public, and supplying the technical skill necessary for the design of suitable remedial processes. It therefore happened that, when the final major campaign opened over the Judicature Act, the belligerent parties discovered that the war was really over. The issues had been fought out, and a sound basis for a mutual understanding was already at hand. The Judicature Acts, and the rules prepared under their authority, codified the results achieved through the years of struggle for reform, and gave the administration of the law a new status and a new spirit. The people had taught the profession that its primary duty was public service, and the profession had convinced the people that it could meet the public demands.

V.

There were three elements in the English situation which determined the course of the reform movement. They were the centralized bar, the centralized courts, and the centralized press.

The bar was not only concentrated in London, but was further localized in the Inns of Court. It was a definite, tangible institution, heir of ancient tradition, and tenant of vast estates. Its members were not a mere aggregate of individuals, but an organized group, with a well-defined social and political status. The administration of justice had for generations been committed to its care, and every one knew it. All the conditions, therefore, existed for focusing public attention upon the bar as the visible cause of the abuses in legal procedure.

But the abuses themselves required the emphasis of centralized aggregation to make them appeal to the imagination of the lay public. Popular opinion does not search far and generalize easily. Widely scattered courts might exhibit many judicial shortcomings without attracting public attention, but if all the defects were concentrated in one court, or one closely affiliated group of courts, so that they could be seen and felt in all their cumulative magnitude, the situation would present dramatic possibilities. So it was with the superior courts of law and chancery in London. They were collectively chargeable with all the judicial mismanagement of the kingdom, and the aggregate of instances, when marshaled against them, made a most formidable and striking indictment.

There still remained the problem of publicity, and this was met by the centralized London press. The journalistic activity of England was concentrated in London, and with a few conspicuous exceptions, like the *Edinburgh Review*, English public opinion found its entire expression in the London newspapers and magazines. There was no other bar but the London bar to compete for the public attention; there were no other courts but the London courts to share the public interest; and there was no other press but the London press to discuss and criticize and condemn the administration of justice. No situation could be conceived better calculated to enable and induce the public to play a dominating rôle in the regulation of judicial procedure.

The striking feature of English reform

²⁹ 14 *Jurist*, part 2 (1850) 117, 118.

³⁰ 1 *Sol. Jour.* (January 17, 1857) 49.

was not the results accomplished, wonderful as they were, but the fact that legal procedure was brought under public, not professional, regulation. A definite and intelligent public opinion was developed as to the means and methods of judicial administration. Early in the struggle it became perfectly clear that delegation of the control of procedural technique to the legal profession was a policy which was socially unsound. "Improvements in it [procedure]," says a writer in 1843, "never can by possibility be effected till definite opinions as to its real defects and the true modes of cure shall prevail among those not in the profession of the law. As a science it is nearly where it was in the Dark Ages. * * * The mental accumulations, which are the skill of the judge and the lawyer in their art, are heaps of prejudices, things prejudged, and stumbling blocks, when they begin to investigate procedure as a science. * * * We want, therefore, men of business, men of the world, and men accustomed to broad scientific researches, associated with lawyers, in this work."³¹

The Times repeatedly pointed out the same limitation as a fact to be constantly remembered by the public. Thus, in 1851, it wrote: "There would seem to be something in the profession of the law which blinds its votaries to the defects of any system which they are called upon to administer. * * * The example of their fathers, the tone of the treatises from which their knowledge is derived, the authority of the judges, the very atmosphere in which they practice—all are calculated to withdraw the minds of lawyers from any endeavor to reform the law."³²

And the Edinburgh Review reminded its readers that the unanimous disapproval of the judges of proposed measures for reform should not be taken too seriously, because of "the direct interest which each of them must have in preserving the law * * * in its present state," an interest which inevitably blinded them to the needs of the public, for

"there is no task so repulsive as that of unlearning in old age the lessons of our youth."³³

Such views, which were widely held and frequently expressed, particularly exasperated the profession, and called forth the most sarcastic and cynical replies.³⁴ But the course of events indicated that the public was serious in its belief that reform of the law could not be safely left to lawyers. The numerous professional committees and commissions, which were charged from time to time with the duty of investigating and reporting upon various aspects of the administration of justice, were soon appraised by public opinion as mere political pretenses. A select committee of the House of Lords, appointed in 1823 to investigate the Court of Chancery, went no further than to take the evidence of Lord Eldon, who was really the subject of investigation, and that of Lord Redesdale, who had not been inside the court since Lord Eldon presided there. No barristers or solicitors were called, and, what was more important, no persons so situated as to give unbiased evidence, such as those who had either quitted active practice before the chancery judges, or who had not yet worked up to a point where they had formed ties of personal contact with them.³⁵ In a review of the progress of law reform in 1833, it was pointed out that the royal commissions were not making any use of the labors of those who had written on law reform, but were occupying themselves with inventing harmless and useless deviations from small rules of practice, without any large views of what should be the scope of and prime object of legal machinery.³⁶ "The Chancery Commission," it was asserted, "though costly enough, was probably intended to do nothing, and next to nothing has accordingly resulted from it."³⁷ The report of the Common-Law Commission, in 1851, was declared by the Westminster Review to be petty and inade-

³¹ April, 1854, pp. 574, 575.

³² See, for example, *Reforms in Chancery*, 1 *Law Magazine*, 352.

³³ *Edinburgh Review*, January, 1824, p. 432.

³⁴ 19 *Westminster Review*, July, 1833, pp. 42-74.

³⁵ *Id.* vol. 21, July, 1834, pp. 102, 103.

³⁶ *Westminster Review*, January, 1843, pp. 107-120.

³⁷ *London Times*, Editorial, July 19, 1851.

quate, and its proposals wholly futile, reflecting the official attitude, "which would rather sacrifice a principle to a practice than disturb a practice by the introduction of a principle,"³⁸ and the *Times* gave it a similar rating.³⁹

As early as 1842 the *Legal Observer* was noting with alarm the growing tendency to exclude lawyers from Parliament, saying that there were at that time only one prominent chancery lawyer and only one leading common-law lawyer in the House of Commons.⁴⁰ In 1850 the crown appointed a commission to inquire into the process, practice, and system of pleading of the Court of Chancery, the personnel consisting of the Attorney General, four eminent queen's counselors learned in the law, and two barristers. This was unsatisfactory to Parliament, and a parliamentary petition was presented to the queen, asking that two or more persons, not of the profession of the law, be added to the commission, in accordance with which, on July 4, 1851, two men of business were appointed as additional commissioners.⁴¹ In subsequent commissions and committees the precedent was followed, and the proportion of laymen has increased in recent years. The last commission on legal procedure, appointed as late as 1913 to investigate the causes of delay in the King's Bench, was made up of one Judge, one king's counsel, one bachelor of laws, and eight laymen. This was no accident. Sir A. Markham, who secured the appointment, stated in the House of Commons that the Attorney General had been asked, in choosing the members, not to permit lawyers to constitute a majority of the commission.⁴² Even this meager representation of the legal profession was objected to by the opposition as discrediting its report.⁴³ Mr. Morton, in the debate in the House of Commons, said: "I am not complaining about the royal commission, except that I agree that there ought never to

have been any lawyers put upon it. * * * You ought to take the lawyers as witnesses, but to make them the judges is ridiculous."⁴⁴

The laymen on the commission of 1913 completely dominated it. The Chairman, Viscount St. Aldwyn, was a layman, and conducted most of the examinations of witnesses, among whom there were called thirteen judges, thirty-one lawyers, and fourteen laymen. The attitude of the commission, while friendly to the legal witnesses, was detached and objective, and was free from the inevitable limitations which legal preconceptions would have imposed on the scope and character of the investigation. The conclusions reflected rather severely on the council of judges, which had met but three times in thirty-seven years to inquire into the working of the rules, and charged the responsibility for delays in the administration of justice to the failure of the judges to use the power which Parliament had conferred upon them by the Judicature Act of 1873. Assuming, says the commission, that the judges found themselves unable to accomplish anything in the way of improving the practice, "we cannot but regret that they have not asked Parliament to relieve them from the duty imposed upon them by statute, and to substitute some other method of considering from time to time and securing any necessary reforms in the administration of justice."⁴⁵

It seems fair to assume that the lessons of the long struggle with the bar have not been forgotten, and that the lay public will not relinquish the authority it has learned to exercise over the methods of judicial administration. It will be much easier to maintain that authority than it was to win it, but machinery for its exercise will doubtless have to be improved. The English public has long been interested in a ministry of justice, as a means of giving the people a constant and efficient supervisory power over the procedure of the judicial establishment.⁴⁶ This has usually, but not always,

³⁸ *Id.* vol. 56, October, 1851, p. 81.

³⁹ Editorial, July 14, 1851.

⁴⁰ 23 *Legal Observer*, 354 (March 5, 1842).

⁴¹ See first report, January 27, 1852.

⁴² Parliamentary Debates, Commons (1913) 67.

⁴³ *Id.* 59.

⁴⁴ *Id.* 102.

⁴⁵ Report, pp. 41, 42.

⁴⁶ See *Machinery of Procedural Reform*, by E. R. Sunderland, 22 *Mich. Law Review* (February, 1924) 233.

been opposed by lawyers. Lord Birkenhead has thrown the weight of his influence strongly against it, on the ground that the Lord Chancellor is in effect such a minister.⁴⁷ It is true that, with the principle of public rather than professional control fully established, the Lord Chancellor, with his legal training and his political responsibility to the people, might be able to act as a real minister of justice, if he were not already burdened with such an enormous number and variety of duties. The solution of that problem is, however, a task for the future.

VI.

At first view the experience of England in developing an effective judicial procedure is very depressing to Americans, for none of the conditions which determined its success are present in this country. We do not have a centralized bar, nor a centralized court at Washington, upon which the attention of the nation can be focused; nor a press accustomed to deal with the administration of justice as a national problem of the first magnitude. Nor do we have even centralized state bars and state courts at our state capitals, operating under the strong light of an active public interest. Our trial courts are all local courts, and we have no bar at all in the English sense of the term, but only a vast number of individual lawyers, having no collective legal or political status. For us "bench" and "bar" are abstract terms. When Chief Justice Taft says, "The administration of the criminal law is a disgrace to our civilization," the charge evokes no general response from the American people, because the term is an abstraction, and means a different thing to each of his hearers. Responsibility is scattered and dissipated among the thousands of judges and lawyers throughout the land. How different was it when the English reformer could point his accusing finger straight at Westminster Hall!

The American lay press has never devoted systematic attention to the administration of justice, for the probable rea-

son that it lacked dramatic quality. Spectacular cases, having a human appeal, have always figured largely in our newspapers, but legal procedure, viewed as a mere impersonal mechanism, has meant nothing to the lay reader. By localizing our courts and individualizing our bar, we have made it impossible to arouse a sustained public interest in legal administration. Public, as distinguished from professional, control of legal procedure, seems, therefore, to be a solution of the problem of group adjustment, which is not available under our American social and political organization.

If America cannot pursue the course taken by England, and avoid the exploitation of the public by the legal profession by means of public control of the methods of administering justice, can it pursue the alternative course, and develop a bar sufficiently enlightened and sensitive to the public needs to be a safe repository of the power of control?

As already suggested, no social group is so favorably situated for developing a rigidly conventionalized attitude of mind as the legal profession. A standardized technique, imposed by legislation, prohibits initiative and destroys originality. There is no inducement to look beyond the rules which circumscribe the sphere of permissible action, nor does the enlargement of that sphere hold out the promise of individual reward among members of a group who all employ an identical procedure. Is there anything in the present situation in the United States which gives any hope of emancipating the bar from the tyranny of its own preconceptions?

In three respects the situation in the United States differs radically from that in England:

In the first place, the judicial decentralization, based upon the independence of our state governments, develops a definite interstate competition in procedural law. All our states have similar judicial problems, which are met in different ways. Successes in one state are imitated in others; failures are avoided. The probability of the accidental emergence of an improvement in procedure is multiplied by forty-eight, and, once having appeared in any state, it becomes an

⁴⁷ Collected papers published under the title "Points of View," chapter on "A Ministry of Justice."

object of interest in all the rest. Although there can be no competition among individual lawyers, we have a very effective competition among systems and rules of practice. The whole country is a laboratory, in which experiments are being actively conducted. Nothing can halt this stimulating process, except the standardizing of procedure through uniform state legislation. It is sincerely to be hoped that this movement will not extend into the procedural field. It will destroy the most promising possibility for the general improvement of American procedure. Court practice, says the Judicial Council of Massachusetts in a recent report, is peculiarly a subject for local experiments in convenience and effectiveness, and the states should not be hampered by uniform laws.⁴⁸

In the next place, we have developed a wholly unique system for organizing the legal profession, which is founded upon a principle radically different from that of the British bar. The basis of legal organization in England is ownership of property and control of the right to practice before the courts. Strictly speaking, the bar in this country is not organized at all, for it holds no estates, and it enjoys no privileges. There is not one legal act which the bar as such is authorized to do. It is, in truth, nothing but a name.

But community of interest stimulates association, and, since lawyers in the United States have no hereditary estates to manage and enjoy, no traditional dinners to eat in their ancient halls, and no solemn and formal duties in calling neophytes to the bar, they have been forced to establish some other basis for professional fellowship. That basis has been mutual association for the discussion of the problems affecting the profession, and, since all of its problems relate in some way to the administration of justice, the bar associations have become the recognized agencies for dealing with that subject. But they have not met the ex-

pectations of the public. Co-operation has been cordial, but it has not been effective. The profession is too heavily loaded with traditional ideas. Its vision is obscured by preconceptions. It cannot examine procedural problems with the detached view which the public interest requires. Habits of thought determine, not only what facts we see, but the light in which we see them. In the case of the legal profession, the fixed procedure under which it works has given those habits a dominating influence. They definitely limit the usefulness of the bar in contributing to a better administration of justice. The remedy is a socialized legal education.

Fortunately the United States has the necessary equipment to give the candidates for the bar the broader training which they need. It is not enough to instruct them in the law as a professional technique. The law school must keep before the student the social function of the law, and the relation between the due administration of justice and the welfare of society. Procedure must be taught as a mechanism, whose sole function is the service of the public; its faults being emphasized as much as its virtues, lest its rules become stereotyped concepts no longer open to re-examination. The young lawyers must understand both the current technique and the true theory of procedure, so that they may be able both to use it and to improve it.

English barristers are trained in the Inns of Court, which are owned and controlled by the bar itself, and the training is narrow and formal. Under our system legal education is controlled by the public, not by the bar, and the training may be as broad as the needs of society require. In its effort to develop and maintain an efficient administration of justice, the United States may prove no less successful than England. Education is, indeed, a slow process. But England went through almost one hundred years of struggle to accomplish her reform. Perhaps one hundred years of the right kind of education will do as much for us.

⁴⁸ First Report (November, 1925) p. 35.

Meeting of the Association of American Law Schools---1925

OFFICERS OF THE ASSOCIATION, 1926

President Ralph W. Aigler, University of Michigan, Ann Arbor.
Secretary-Treasurer H. Claude Horack, State University of Iowa, Iowa City.
Executive Committee..... The President, ex officio.
The Secretary-Treasurer, ex officio.
Orrin K. McMurray, University of California.
Ira P. Hildebrand, University of Texas.
Herman Oliphant, Columbia University.

COMMITTEES FOR THE YEAR 1926

Committee on Curriculum:

Charles K. Burdick, Cornell University, Chairman.
W. W. Cook, Yale University.
E. R. Keedy, University of Pennsylvania.
M. R. Kirkwood, Stanford University.
H. S. Richards, University of Wisconsin.
Austin W. Scott, Harvard University.
F. C. Woodward, University of Chicago.

Special Committee on Co-operation with the Bench and Bar.

Joseph H. Beale, Harvard University, Chairman.
Henry M. Bates, University of Michigan.
Austin T. Wright, University of Pennsylvania.
M. L. Ferson, University of North Carolina.
Everett Fraser, University of Minnesota.
H. S. Richards, University of Wisconsin.
N. T. Dowling, Columbia University.

Special Committee on International Law:

Manley O. Hudson, Harvard University, Chairman.
E. D. Dickinson, University of Michigan.
Edwin M. Borchard, Yale University.
O. K. McMurray, University of California.
Joseph W. Bingham, Stanford University.
E. R. Keedy, University of Pennsylvania.
Charles K. Burdick, Cornell University.

Committee on Jurisprudence and Legal Philosophy:

John H. Wigmore, Northwestern University, Chairman.
Joseph H. Drake, University of Michigan.
Albert Kocourek, Northwestern University.
Ernest G. Lorenzen, Yale University.
Floyd R. Mechem, University of Chicago.
Arthur W. Spencer, Brookline, Mass.
Roscoe Pound, Harvard University.
Morris R. Cohen, College of the City of New York.

Committee on Legal History :

John H. Wigmore, Northwestern University, Chairman.
 Joseph H. Drake, University of Michigan.
 Ernst Freund, University of Chicago.
 Ernest G. Lorenzen, Yale University.
 Wm. E. Mikell, University of Pennsylvania.

Committee on Reprinting Leading Articles :

A. M. Kidd, University of California, Chairman.
 Z. Chaffee, Harvard University.
 R. M. Perkins, State University of Iowa.

Committee on Survey of Crime, Criminal Law, and Criminal Procedure :

Justin Miller, University of Minnesota, Chairman.
 John B. Waite, University of Michigan.
 Edwin R. Keedy, University of Pennsylvania.
 John H. Wigmore, Northwestern University.
 Roscoe Pound, Harvard University.

ROUND TABLE COUNCILS FOR 1926
Business Associations :

Robert S. Stevens, Cornell University, Chairman.
 Philip Mechem, University of Kansas, Secretary.
 Merton L. Ferson, University of North Carolina.
 Thomas C. Lavery, University of Minnesota.

Wrongs :

Rollin M. Perkins, State University of Iowa, Chairman.
 J. A. Crane, University of Pittsburgh.
 Charles J. Turck, University of Kentucky.
 S. I. Langmaid, University of Missouri.

Equity :

Edwin W. Patterson, Columbia University, Chairman.
 E. E. Cheatham, University of Illinois, Secretary.
 H. G. Spaulding, George Washington University.
 M. T. Van Hecke, University of Kansas.

Commercial Law :

M. S. Breckenridge, Western Reserve University, Chairman.
 W. A. Sturges, Yale University.
 Grover C. Grismore, University of Michigan.
 Charles J. Turck, University of Kentucky.
 A. A. Morrow, Drake University.

Property and Status :

O. S. Rundell, University of Wisconsin, Chairman for '26.
 R. R. B. Powell, Columbia University, Chairman for '27.
 Marion R. Kirkwood, Stanford University, Chairman for '28.

Jurisprudence and Legal History :

Robert W. Millar, Northwestern University, Chairman.
 H. E. Yntema, Columbia University.
 Wm. E. Mikell, University of Pennsylvania.
 M. S. Breckenridge, Western Reserve University.
 Theodore F. T. Plucknett, Harvard University.

Public Law:

Frederick Green, University of Illinois, Chairman.
A. M. Cathcart, Stanford University.
Edwin M. Borchard, Yale University.
Ira P. Hildebrand, University of Texas.
Edwin B. Stason, University of Michigan.

Remedies:

Justin Miller, University of Minnesota, Chairman.
Thomas E. Atkinson, University of North Dakota.
R. F. Magill, Columbia University.
Robert W. Millar, Northwestern University.
Charles T. McCormick, University of Texas.
R. M. Hutchins, Yale University.

ARTICLES OF ASSOCIATION

Adopted August 28, 1900, as Amended and Construed in Subsequent Annual Meetings

THE undersigned Law Schools in the United States, represented by delegates duly appointed by their respective faculties, do hereby form an Association to be called the Association of American Law Schools, and establish the following as its Articles of Association:

First. The object of the Association is the improvement of legal education in America, especially in the Law Schools.

Resolved, That the members of the Association be requested to print in their annual announcement the fact of their membership in the Association. [Adopted. Proceedings, 1902, pp. 7, 10.]

Second. The Association shall meet annually at the time and place at which the American Bar Association meets, unless the Executive Committee shall otherwise direct. The Executive Committee may call special meetings at such time and place as the Committee may select; thirty days' notice of such meeting shall be given by the Secretary to all members of the Association, and the purpose of the meeting shall be stated in the notice.

Resolved, That each year there shall be one meeting of the Association of American Law Schools, which shall be a private business meeting of the Association only, at which no papers shall be presented. [Adopted. Proceedings, 1905, p. 22.]

The Executive Committee recommended for adoption at the 1914 meeting an amendment adding the words, "unless the Executive Committee shall otherwise direct." [Adopted. Proceedings, 1914, pp. 8-14.]

Resolved, That all teachers in law schools which are not members of the Association be cordially invited to attend our meetings and to participate in our discussions. [Adopted. Proceedings, 1921, pp. 39, 87, 88.]

Third. The Law Schools having delegates at this meeting and signing these Articles be-

fore July 1, 1901, shall be members of the Association, provided such schools shall comply with Article Sixth.

Resolved, That the Association recommends that the expenses of delegates to the annual meeting of the Association be paid by the schools appointing them. [Adopted. Proceedings, 1901, pp. 7, 10.]

See also minutes of the Executive Committee, Proceedings, 1908, p. 6.

The Association declined to make the sending of delegates compulsory. Proceedings, 1901, p. 10; 1902, p. 5. The Fourth Article which read, "Each member of the Association may send to the meetings delegates not exceeding four from each Law School," was stricken out by action of the Association. Proceedings, 1919, pp. 68-70.

Fifth. At all meetings of the Association the voting shall be by delegates, unless some delegate requests that any vote shall be taken by schools, in which case it shall be taken by schools, each school having one vote.

Sixth. Law schools may be elected to membership at any meeting by a vote of the Association, but no law school shall be so elected unless for at least two years immediately preceding its application it has complied with the following requirements: [Amended 1925; see Proceedings, 1925.]

1. It shall be a school not operated as a commercial enterprise, and the compensation of any officer or member of its teaching staff shall not depend on the number of students, nor on the fees received. [Adopted 1922. See Proceedings, pp. 64-66.]

2. After September 1, 1923, it shall require of all candidates for its degree at the time of their admission to the school the completion either of one year of college work or such work as would be accepted for admission to the second or sophomore year in the College of Liberal Arts of the state uni-

versity or of the principal colleges and universities in the state where the law school is located and, after September 1, 1925, it shall require of all candidates for its degree at the time of their admission to the school either the completion of two years of college work or such work as would be accepted for admission to the third or junior year in the College of Liberal Arts of the state university or of the principal colleges and universities in the state where the law school is located.

See Proceedings, 1921, pp. 31, 123-133. This section originally read as follows:

1. It shall require of candidates for its degree the completion of a high school course of study, or its equivalent. The equivalent may be determined by the Law School Faculty upon certificates issued under public authority, or by the authorities of an institution of advanced learning. In the absence of these the applicant shall be required to pass an examination in studies equivalent to those required of high school graduates: Provided, that this requirement shall not take effect until September, 1901.

The following construction was placed upon this section before its amendment:

Resolved, That the first requirement of the Sixth Article of the Articles of Association means that students when admitted to the school shall, as a general rule—subject only to occasional exceptions in special cases—possess the qualifications therein stated. [See Proceedings, 1903, p. 9.]

In 1906, this section, as originally enacted, was amended to read as follows:

1. It shall require of all candidates for its degree at the time of their admission to the school the completion of a four years' high school course, or such a course of preparation as would be accepted for admission to the State university or to the principal colleges and universities in the State where the Law School is located: Provided, that this requirement shall not take effect until September, 1907. [See Proceedings, 1906, pp. 9, 11.]

A later resolution on the subject is as follows:

Resolved, That the Association deems it highly advisable that the requirements for admission to the Law Schools which are members of this Association shall be advanced as rapidly as the conditions, under which the work of the several schools is carried on will permit, and strongly commends the action of those schools which have already advanced their requirements so as to require one or more years of work at college as a prerequisite to admission to the Law School and expresses the earnest hope that this advancement may continue until all of the members of the Association shall ultimately require at least two years of college work as preliminary to the study of law. [See Proceedings, 1908, pp. 4, 5.]

This resolution was adopted as part of the report of the Executive Committee, which stated that "the Committee does not now recommend that any advancement in the requirement for admission shall be made compulsory upon the Association, or a condition of membership in it." See also Proceedings, 1910, p. 41.

The following resolutions were adopted December 29, 1916. [See Proceedings, 1916, p. 81.]

Resolved, That in case of members exacting only the minimum entrance requirement of a four years' high school course, all of such requirement should be completed before the study of law is begun. Resolved further, That even though the required preliminary education be in excess of the minimum prescribed by Art.

VI. (1), it should be substantially completed before the study of law is begun.

At the Twentieth Annual Meeting the following was adopted: "Students may register as candidates for the law degree though conditioned in not to exceed three year hours of college work." See Proceedings, 1922, pp. 156-158 (cf. Art. Sixth, Sec. 5.)

For recommendations as to a program of university courses for students preparing for the study of law, see Proceedings, 1909, pp. 38, 39.

3. A full-time school shall require of its candidates for the first degree in law resident study of law during a period of at least ninety weeks and the successful completion of at least ten hundred and eighty hours of class-room instruction in law. A school whose curriculum and schedule of work are so arranged that, in the opinion of the Executive Committee, substantially the full working time of its students is required for the work of the school, shall be considered a full-time school.

A school whose curriculum and schedule of work are so arranged that, in the opinion of the Executive Committee, substantially the full working time of its students is not required for the work of the school, shall be considered a part-time school. A part-time school must maintain a curriculum which, in the opinion of the Executive Committee, is the equivalent of that of a full-time school. The action of the Executive Committee under this paragraph shall in each instance be reported to the Association at its next annual meeting and shall stand as the action of the Association until set aside by a vote of a majority of all the members of the Association.

Any school now or hereafter a member of the Association, that conducts both full and part-time curricula, must comply as regards each with the requirements therefor as set forth in the preceding paragraphs.

No school shall be or remain eligible to membership if the institution of which it is a part shall through any other agency conduct instruction in law designed to prepare students for admission to the Bar or for Bar examinations, save in conformity with the provisions of the preceding paragraphs.

See Proceedings, 1919, pp. 71-87. This section originally read as follows:

2. The course of study leading to its degree shall cover at least two years of thirty weeks per year with an average of at least ten hours' required classroom work each week for each student: Provided, That after the year 1906 members of this Association shall require a three years' course.

The following construction was placed upon this section before its amendment:

Resolved, That any school which gives a degree to a student who has studied law for less than three years is not complying with Article VI of the Articles of the Association. [Adopted, Proceedings, 1907, pp. 39, 47.]

Resolved, That present members of the Association who have in good faith accepted a different interpretation of the requirements of Article VI shall have two years to comply with the interpretation now adopted. [Adopted. Proceedings, 1907, p. 48.]

Resolved, (1) That the question of giving credit for work done in other Law Schools must

be left to the discretion of each member of the Association.

(2) That under no circumstances should students be admitted to advanced standing on account of work done in law offices, or elsewhere than in a Law School, except upon the applicant's passing rigid examinations on the subjects for which time credit is to be given.

(3) That the time credits so given for office work should not exceed one year.

(4) That the practice of giving advanced standing on account of office work, even when so restricted, is dangerous to the maintenance of high standards and is to be reprehended, but it is not deemed wise at the present time to adopt any regulation prohibiting the allowance of time credit of a year or less for such study in law offices and the consequent admission to advanced standing on that account. [See Proceedings, 1908, pp. 4-6.]

In 1909 this section was again amended to read as follows:

2. It shall require of its candidates for any legal degree study of law during a period of at least three years of thirty weeks each, with an average of at least ten hours' required classroom work each week; provided, however, that candidates attending night classes only shall be required to study law during a period of not less than four years of thirty weeks each, with an average of at least eight hours of required classroom work each week. [Proceedings, 1909, pp. 34, 36.]

"Whereas, The maintenance of regular courses of instruction in law at night, parallel to courses in the day, tends inevitably to lower educational standards.

"Be it Resolved, That the policy of the Association shall be not to admit to membership hereafter any law school pursuing this course." [See Proceedings, 1912, p. 45.]

At the Sixteenth annual meeting the Executive Committee reported as follows, concerning Article VI (2):

"Some doubts have arisen as to whether Article VI (2) requires the three years' study to be in residence. These doubts appear to have been caused in part by certain resolutions passed in 1907 and 1908 before subsection 2 was amended in its present form. In order to set at rest these doubts the Committee offers the following resolution:

"Resolved, That the period of study required by Art. VI (2) is to be interpreted as meaning resident study."

The foregoing resolution was adopted. See Proceedings 1916, p. 82.

As to dispensations on account of war service see resolution passed at seventeenth annual meeting. Proceedings, 1919, pp. 64-68.

At the seventeenth annual meeting a recommendation of the Executive Committee was adopted to the effect that hereafter no law schools should be admitted except upon the condition that neither they nor the universities with which they are connected should thereafter conduct night classes in law for students preparing for the Bar. See Proceedings, 1919, p. 90.

At the nineteenth annual meeting a recommendation of the Committee on Classification of Law Schools to admit night law schools complying with certain requirements was lost. [Proceedings, 1921, pp. 86-104.]

The section was amended in 1923. See Proceedings, pp. 50, 111. The present definition of full and part time schools was adopted in 1924. See Proceedings, 1924, pp. 47-50.

4. The conferring of its degree shall be conditioned upon the attainment of a grade of scholarship ascertained by examination.

Resolved, That no student should be unconditionally advanced from one class to a higher one without passing satisfactory examination

upon the studies previously pursued by the former class. [Adopted. Proceedings, 1902, p. 7.]

It was the sense of the Committee that final examinations under the rule should not be considered as required in practice court and in courses involving the drafting of legal instruments, but that as to such courses as legal bibliography, a final examination might very well be expected. The general principle was declared to be that final examinations should be required in all courses reasonably susceptible thereto. [Exec. Com. Report, 1923.]

5. After September 1, 1923, students who enter with less than the academic credit required of candidates for the law degree by Section 2 of this Article, must be twenty-one years of age and the number of such students admitted each year shall not exceed ten per cent. of the average number of students first entering the school during each of the two preceding years. [Adopted 1922. See Proceedings, pp. 54-63.]

Of. resolution of 1922. Proceedings, pp. 156-158.

"It was voted as the sense of the Committee that Article VI, Section 5, would not apply to summer schools unless the summer session is an integral part of the year's program, as for instance in the case of universities which have adopted the quarter system. As regards other summer sessions, students who first enter at such sessions shall for purposes of the rule, if they attend a later regular session, be counted then as newly entering students." [Exec. Com. Report, 1923.]

6. Commencing September 1, 1927, it shall own a law library of not less than seventy-five hundred volumes, which shall be so housed and administered as to be readily available for use by students and faculty.

For additions to the library in the way of continuations and otherwise there shall be spent over any period of five years at least seventy-five hundred dollars, of which at least one thousand dollars shall be expended each year.

Amended 1924 (see Proceedings, 1924, pp. 50, 51) and 1925 (see Proceedings, 1925.)

7. Its faculty shall consist of at least three instructors who devote substantially all of their time to the work of the school; and in no case shall the number of such full-time instructors be fewer than one for each one hundred students or major fraction thereof.

Adopted December 29, 1916. See Proceedings, 1916, pp. 67-80. Amended in 1924. See Proceedings, 1924, pp. 51-64.

8. Each member shall maintain a complete individual record of each student, which shall make readily accessible the following data: Credentials for admission; the action of the administrative officer passing thereon; date of admission; date of graduation or final dismissal from school; date of beginning and ending of each period of attendance, if the student has not been in continuous residence throughout the whole period of study; courses which he has taken, the grades therein, if any, and the credit val-

ue thereof, and courses for which he is registered; and a record of all special action of the faculty or administrative officers.

Adopted December 31, 1919. See Proceedings, 1919, pp. 87, 88.

Seventh. Any school which shall fail to maintain the requirements provided for in Article Sixth, or such standard as may hereafter be adopted by resolution of the Association, shall be excluded from the Association by a vote at the general meeting, but may be reinstated at a subsequent meeting on proof that it is then bona fide fulfilling such requirement.

Any member school which shall fail to be represented by some member of its faculty at the annual meeting at least once in any three year period shall be deemed to have discontinued its membership.

Amended 1925. See Proceedings, 1925.

Eighth. The officers of this Association shall be a President and a Secretary-Treasurer, who shall be chosen from among the delegates at each annual meeting, and each of whom shall hold office until his successor is elected.

Ninth. At each annual meeting there shall be chosen from among the delegates three persons to be members of the Executive Committee, who with the President and Secretary shall form such Committee. The Secretary of the Association shall be Secretary of the Committee.

Tenth. The Executive Committee shall have charge of the affairs of the Association and is especially intrusted with seeing that the requirements of Articles Sixth and Seventh are complied with. All complaints shall be addressed to the Executive Committee, and shall be filed at least ninety days before the annual meeting of the Association. The Committee shall investigate all complaints and report its findings, with such recommendations as it shall think proper, to the Association for its action and shall make a report at the annual meeting. This provision shall not, however, prevent any matter being taken up and passed upon by the Association, except that no Law School shall be excluded from the Association under the Seventh Article unless the Executive Committee has given it thirty days' notice that it has in the opinion of that Committee failed to comply with the provisions of the Sixth or Seventh Article.

For discussion of the powers and duties of the Executive Committee under this section see Proceedings, 1906, pp. 114-129.

As to power of Executive Committee to pay expenses of committees, see Proceedings, 1921, pp. 136, 137.

"On motion it was voted that the Executive Committee be requested to print its report and mail it to the members of the Association at least twenty days before the annual meeting of the Association." Proceedings, 1901, p. 10.

Eleventh. Applications for membership shall be addressed to the Secretary, accom-

panied by evidence that the school applying has, for at least two years immediately preceding, complied with the requirements as set forth in Articles Sixth and Seventh. The Executive Committee shall examine the application and report to the Association whether the applicant has fulfilled the requirements. Applications for membership shall be made at least sixty days before the meeting of the Association.

Amended 1923 (see Proceedings, 1923, p. 49) and 1925 (see Proceedings, 1925).

Twelfth. The Executive Committee may conduct its business by correspondence.

Thirteenth. The officers and other members of the Executive Committee may be re-elected, but no school shall be represented on the Executive Committee for more than three years in succession, except that the Secretary-Treasurer may be re-elected indefinitely.

Fourteenth. The annual assessment on each school shall be forty dollars, payable in advance, and any school which shall have failed to pay its assessment during the year shall be dropped from the Association, but may be reinstated by vote of the Association upon payment of arrears.

Recommendation of the Executive Committee, April 18, 1915: "The committee voted to recommend that Article Fourteenth of the Articles of Association be amended by substituting the word 'twenty-five' for the word 'ten' so that it will read: 'Fourteenth. The annual assessment on each school shall be twenty-five dollars, payable in advance,' etc." This recommendation was modified at the December, 1915, meeting, by making the annual assessment twenty dollars. See Proceedings, 1915, p. 53. At the December, 1920, meeting, the annual assessment was fixed at thirty dollars. See Proceedings, 1920, p. 133. At the twentieth annual meeting 1922, the annual assessment was fixed at forty dollars. See Proceedings, 1922, p. 54.

A recommendation of the Executive Committee on September 28, 1921, that "the annual assessment on each school shall be one hundred dollars (\$100), payable in advance, and any school which shall have failed to pay its assessment during the year shall be dropped from the Association, but may be reinstated by vote of the Association upon payment of arrears. The round-trip railway fare of one delegate from each school to the annual meeting shall be paid from the treasury of the Association, but such payment shall not be made for travel beyond the United States or the Dominion of Canada, or where no delegate has been in attendance" was lost, on a vote on December 29, 1921, at the nineteenth annual meeting. See Proceedings, 1921, pp. 31, 55-71.

Fifteenth. These articles may be changed at any annual meeting, the vote on such change shall be by schools, and no change shall be adopted unless it is voted for by two-thirds of the schools represented, nor unless it is voted for by at least one-third of all the members of the Association; provided, that no motion for an amendment shall be considered unless a copy of such proposed amendment be filed with the Secretary at least sixty days before the meeting and a copy thereof sent forthwith by the Secre-

tary to each member. [As amended 1923. See Proceedings, p. 49.]

"Two-thirds of the schools represented" was held to mean *represented in the vote on the question before the convention*. Proceedings, 1922, pp. 96-98.

MEMBERS OF THE ASSOCIATION

Boston University School of Law, Boston, Mass.
 Catholic University of America School of Law, Washington, D. C.
 Columbia University School of Law, New York City.
 Cornell University, Cornell Law School, Ithaca, N. Y.
 Creighton University College of Law, Omaha, Neb.
 De Paul University College of Law, Chicago, Ill.
 Drake University Law School, Des Moines, Iowa.
 Emory University, Lamar School of Law, Emory University, Ga.
 Georgetown University Law School, Washington, D. C.
 George Washington University Law School, Washington, D. C.
 Harvard University Law School, Cambridge, Mass.
 Hastings College of Law, San Francisco, Cal.
 Indiana University School of Law, Bloomington, Ind.
 Louisiana State University School of Law, Baton Rouge, La.
 Loyola University School of Law, Chicago, Ill.
 McGill University Faculty of Law, Montreal, Canada.
 Marquette University Law School, Milwaukee, Wis.
 Mercer University Law School, Macon, Ga.
 Northwestern University School of Law, Chicago, Ill.
 Ohio State University College of Law, Columbus, Ohio.
 St. Louis University School of Law, St. Louis, Mo.
 Stanford University Law School, Stanford University, Cal.
 State University of Iowa College of Law, Iowa City, Iowa.
 Syracuse University College of Law, Syracuse, N. Y.
 Tulane University of Louisiana College of Law, New Orleans, La.
 University of California School of Jurisprudence, Berkeley, Cal.
 University of Chicago Law School, Chicago, Ill.
 University of Cincinnati College of Law, Cincinnati, Ohio.
 University of Colorado School of Law, Boulder, Colo.
 University of Florida College of Law, Gainesville, Fla.

University of Idaho College of Law, Moscow, Idaho.
 University of Illinois College of Law, Urbana, Ill.
 University of Kansas School of Law, Lawrence, Kan.
 University of Kentucky College of Law, Lexington, Ky.
 University of Michigan Law School, Ann Arbor, Mich.
 University of Minnesota Law School, Minneapolis, Minn.
 University of Mississippi School of Law, University, Miss.
 University of Missouri School of Law, Columbia, Mo.
 University of Montana School of Law, Missoula, Mont.
 University of Nebraska College of Law, Lincoln, Neb.
 University of North Carolina School of Law, Chapel Hill, N. C.
 University of North Dakota School of Law, Grand Forks, N. D.
 University of Notre Dame College of Law, Notre Dame, Ind.
 University of Oklahoma School of Law, Norman, Okl.
 University of Oregon School of Law, Eugene, Or.
 University of Pennsylvania Law School, Philadelphia, Pa.
 University of Pittsburgh School of Law, Pittsburgh, Pa.
 University of the Philippines College of Law, Manila, P. I.
 University of South Carolina School of Law, Columbia, S. C.
 University of South Dakota School of Law, Vermillion, S. D.
 University of Southern California College of Law, Los Angeles, Cal.
 University of Tennessee College of Law, Knoxville, Tenn.
 University of Texas School of Law, Austin, Tex.
 University of Virginia Department of Law, Charlottesville, Va.
 University of Washington School of Law, Seattle, Wash.
 University of Wisconsin Law School, Madison, Wis.
 University of Wyoming Law School, Laramie, Wyo.
 Vanderbilt University Law School, Nashville, Tenn.
 Washburn College School of Law, Topeka, Kan.
 Washington and Lee University School of Law, Lexington, Va.
 Washington University School of Law, St. Louis, Mo.
 West Virginia University College of Law, Morgantown, W. Va.
 Western Reserve University, Franklin T. Backus Law School, Cleveland, Ohio.
 Yale University School of Law, New Haven, Conn.

AT THE Twenty-Third Annual Meeting of the Association of American Law Schools, held at the Hotel Sherman, Chicago, December 29, 30, and 31, 1925, the roll call disclosed the following schools represented by the delegates named below:

Boston University School of Law: C. H. Robinson.

Catholic University of America School of Law: John W. Curran.

Columbia University School of Law: K. N. Llewellyn, Herman Oliphant, Edwin W. Patterson, Hessel E. Yntema.

Cornell University, Cornell Law School: Charles K. Burdick, Herbert D. Laube, O. L. McCaskill, Lyman P. Wilson.

Creighton University College of Law: L. J. Te Poel.

De Paul University College of Law: C. Martin Alsager, Ralph S. Bauer, James J. Cherry, William F. Clarke, John J. Meehan, Dennis F. Scanlan, Harry D. Taft.

Drake University Law School: L. S. Forrest, Morton Hendrick, S. Mason Ladd, Arthur A. Morrow, Scott Rowley.

Emory University, Lamar School of Law: Joseph M. Cormack, C. J. Hilkey.

Georgetown University Law School: Hugh J. Fegan.

George Washington University Law School: Earl C. Arnold, C. S. Collier, Alvin E. Evans, Basil H. Pollitt, C. M. Updegraff.

Harvard University Law School: Joseph H. Beale, Francis H. Bohlen, Morton C. Campbell, Manley O. Hudson, Eldon R. James, James A. McLaughlin, John M. Maguire, Calvert Magruder, E. M. Morgan, T. F. T. Plucknett, Austin W. Scott.

Hastings College of Law: William M. Simmons.

Indiana University School of Law: Paul V. McNutt, James J. Robinson, Paul L. Sayre.

Louisiana State University School of Law: Ira Samuel Flory.

Loyola University School of Law: Irving Wesley Baker, Urban A. Lavery, John V. McCormick, J. Wesley Miller, F. J. Rooney, Sherman Steele.

McGill University Faculty of Law: P. E. Corbett.

Marquette University Law School: John McDill Fox, Willis E. Lang, Max Schoetz, Jr., Carl Zollmann.

Mercer University Law School: Rufus C. Harris, D. H. Kerchner.

Northwestern University School of Law: Andrew A. Bruce, F. B. Crossley, Herbert Harley, Robert W. Millar, John H. Wigmore.

Ohio State University College of Law: Norman D. Lattin, Robert Elden Mathews, Lewis M. Simes.

St. Louis University School of Law: J. Coy Bour, A. G. Eberle, Vernon A. Vrooman.

Stanford University Law School: M. R. Kirkwood, W. B. Owens.

State University of Iowa College of Law: Percy Bordwell, H. C. Horack, Henry Craig Jones, O. K. Patton, Rollin M. Perkins, Malcolm P. Sharp, Arthur A. Zimmerman.

Syracuse University College of Law: Ralph E. Himstead, Frank R. Walker, Harry E. Wareham.

Tulane University of Louisiana College of Law: A. B. Cox.

University of California School of Jurisprudence: A. M. Kidd, Orrin K. McMurray.

University of Chicago Law School: Newman F. Baker, Harry A. Bigelow, George G. Bogert, Ernst Freund, J. P. Hall, Floyd R. Mechem, E. W. Puttkammer, Frederic C. Woodward.

University of Cincinnati College of Law: Howard L. Bevis, Fred C. Hicks, John Louis Kohl.

University of Colorado School of Law: Joseph R. Long.

University of Florida College of Law: Harry L. Thompson.

University of Idaho College of Law: Robert McNair Davis, Maurice H. Merrill.

University of Illinois College of Law: William E. Britton, Elliott Cheatham, Geo. W. Goble, Frederick Green, Albert J. Harpo, Francis S. Philbrick, W. L. Summers, Geo. B. Weisiger.

University of Kansas School of Law: H. W. Arant, Philip Mechem, M. T. Van Hecke. University of Kentucky College of Law: W. Lewis Roberts, H. J. Scarborough, Chas. J. Turk.

University of Michigan Law School: Ralph W. Aigler, Henry M. Bates, Edwin D. Dickinson, Grover C. Grismore, Burke Shartel, Edwin Blythe Stason, Edson R. Sunderland, John B. Waite.

University of Minnesota Law School: W. H. Cherry, Everett Fraser, Thomas Claffey Lavery, H. L. McClintock, Justin Miller. James Paige, H. Rottschaefer.

University of Missouri School of Law: Guy V. Head, Stephen Ives Langmaid, J. P. McBaine, J. L. Parks, James W. Simonton.

University of Nebraska College of Law: W. A. Seavey.

University of North Carolina School of Law: Merton L. Ferson, Frank S. Rowley, Robert H. Wettach.

University of North Dakota School of Law: Thomas E. Atkinson, W. E. Burby, O. P. Cockerill, Frederick C. Lusk.

University of Notre Dame College of Law: Thomas F. Konop, Edwin W. Hadley.

University of Oklahoma School of Law: Joseph F. Francis, Victor H. Kulp, Julien C. Monnet.

University of Oregon School of Law: William G. Hale.

University of Pennsylvania Law School: Carl W. Funk, Edwin R. Keedy, Wm. Lewis, William Foster Reeve, III, Austin T. Wright.

University of Pittsburgh School of Law: J. A. Crane, Wm. H. Eckert, John D. McIntyre, George Jarvis Thompson.

University of South Carolina School of Law: J. Nelson Frierson.

University of South Dakota School of Law: L. W. Feezer, Harry W. Vanneman.

University of Southern California College of Law: Frank M. Porter, E. Marion Rucker, C. S. Tappaan.

University of Texas School of Law: A. Leon Green, Ira P. Hildebrand, E. Karl McGinnis.

University of Virginia Department of Law: F. D. G. Ribble.

University of Washington School of Law: Leslie J. Ayer.

University of Wisconsin Law School: Frank T. Boesel, Ray A. Brown, Wm. Herbert Page, H. S. Richards, Oliver S. Rundell, John B. Sanborn, John D. Wickhem.

University of Wyoming Law School: Charles G. Haglund.

Vanderbilt University Law School: H. B. Schermerhorn.

Washburn College School of Law: Harry K. Allen.

Washington and Lee University School of Law: Raymon T. Johnson, W. H. Moreland.

Washington University School of Law: Tyrrell Williams.

West Virginia University College of Law: J. W. Madden, Clifford R. Snider.

Western Reserve University, Franklin T. Backus Law School: M. S. Breckenridge, A. C. Brightman.

Yale University School of Law: Charles E. Clark, Walter W. Cook, Arthur L. Corbin, Robert M. Hutchins, Ernest G. Lorenzen, Merrill I. Schnebly, Edward S. Thurston, W. R. Vance.

Member Schools Not Represented

University of Mississippi School of Law.

University of Montana School of Law.

University of Philippines College of Law.

University of Tennessee College of Law.

Guests of the Association

American Bar Association: Theodore Francis Green.

Baylor University Law School: Allen G. Flowers.

Brooklyn Law School: H. W. Humble.

The Comparative Law School of China: Kenneth H. Fu, Robert C. W. Sheng.

Oklahoma Agricultural and Mechanical College: Floyd A. Wright.

St. Paul College of Law: Oscar Hallam.

Southern Methodist University, School of Law: W. A. Rhea.

University of Arkansas Department of Law: J. S. Waterman.

Westminster Law School: Hamlet J. Barry.

Youngstown Law School: Theodore A. Johnson.

REPORTS OF COMMITTEES

THE EXECUTIVE COMMITTEE

During the year the Executive Committee has held two meetings, one on April 30 at Washington, D. C., the other on October 10 at Ann Arbor, Michigan. With the exception of the proposed amendments to the Articles of Association, which follow, the attention of the Committee at these meetings was directed to routine matters.

The Committee proposes the following changes in the Articles of Association:

The opening paragraph of Article Sixth to read:

"Law schools may be elected to membership at any meeting by a vote of the Association, but no law school shall be so elected unless for at least two years immediately preceding its application it has complied with the following requirements:"

Section 2 of the same Article to read:

"It shall require of all candidates for its degree at the time of their admission to the school the completion of two years of college work; that is, such work as would be accepted for admission to the third or junior year in the College of Liberal Arts of the state university or of the principal colleges and universities in the state where the law school is located."

Section 5 of Article Sixth to read:

"Students who enter with less than the academic credit required of candidates for the law degree by Section 2 of this Article, must be twenty-one years of age and the number of such students admitted each year shall not exceed ten per cent. of the average number of students entering the school during each of the two preceding years. In no case shall any such student be transferred to regular standing or the law degree conferred upon him, unless he shall have earned the minimum academic credit set forth in Section 2 of this Article."

Section 6 of Article Sixth to read:

"It shall own a law library of not less than seventy-five hundred volumes among which there must be the following:

"(1) The published reports of decisions of the state in which the school is located together with commonly used editions of the statutes and digests;

"(2) The published reports of decisions of the courts of last resort in at least one-half the states of the United States with reasonably up-to-date editions of statutes;

"(3) The published reports of the decisions of the United States Supreme Court with the generally used editions of federal statutes and digest;

"(4) The National Reporter System complete (may count on No. 2);

"(5) Leading up-to-date publications in the way of general digests, encyclopedias, and treatises of accepted worth;

"(6) At least six legal periodicals of recognized worth, complete with current numbers;

"(7) The English reports covered by the so-called Reprint together with the Law Reports to date.

"The books shall be so housed and administered as to be readily available for use by students and faculty.

"For additions to the library in the way of continuations and otherwise there shall be available over any period of five years at least seventy-five hundred dollars.

"As to present members of the Association this section as amended shall be operative September 1, 1927."

Article Seventh to read:

"Any school which shall fail to maintain the requirements provided for in Article Sixth, or such standard as may hereafter be adopted by resolution of the Association, shall be excluded from the Association by a vote at the general meeting, but may be reinstated at a subsequent meeting on proof that it is then bona fide fulfilling such requirement.

"Any member school which shall fail to be represented by some member of its faculty at the annual meeting at least once in any three year period shall be deemed to have discontinued its membership."

Article Eleventh to read:

"Applications for membership shall be addressed to the Secretary, accompanied by evidence that the school applying has, for at least two years immediately preceding, complied with the requirements as set forth in Articles Sixth and Seventh. The Executive Committee shall examine the application and report to the Association whether the applicant has fulfilled the requirements. Applications for membership shall be made at least sixty days before the meeting of the Association."

Respectfully submitted,
Ralph W. Aigler, Secretary.

THE COMMITTEE ON CURRICULUM

At the annual meeting of the Association in 1923 the following resolution was passed:

"We refer to the Curriculum Committee for report next year the question of the maximum amount of credit which, in its judgment, should be given in the three year undergraduate law course for work done in the courses in Legal Procedure, including Pleading, Evidence, Practice and Moot Court."—Proceedings 1923, p. 113.

In responding to this resolution, your committee has confined its attention to ascertaining the amount of procedural law offered by member schools, and the amount actually taken by students, it knowing of no data in terms of which a judgment as to what amount of procedural law a student should take could be formulated except those relating to existing practices of member schools. Your committee does not undertake to measure or to state the extent to which existing practice is a sound basis of judgment as to how much

attention should be given to procedural law as it has no way of knowing the degree, if any, to which existing practices may have come about as a result of more or less accidental factors such as those of casebook publication, the inclination of law teachers, and the influence of schools drawing students from many states upon the curricula of schools drawing substantially all of their students from their respective states. By this your committee does not intend to indicate that the present offering of procedural courses by member schools is not a sound basis of judgment.

The data as to existing conditions have been collected and arranged in three parts, as follows:

There is given first below a table of the member schools showing (with the exceptions and qualifications footnoted):

(a) The number of semester hours of law, both substantive and procedural, *offered by each school*; the number of semester hours of each kind of law so offered and their percentage ratio.

(b) The estimated average number of semester hours of law, both substantive and procedural, *taken by law students*; the estimated average number of semester hours of each kind of law so taken and their percentage ratio.

(c) The average and mean percentage of procedural law *offered* and the same of that *taken* by students.

In classifying courses as either substantive or procedural, the following courses are the ones classed as procedural:

Common-Law Pleading.
Code Pleading.
Evidence.
Trial Practice.
Practice Court.
Local Practice Courses.
As to

Legal Bibliography and
Moot Courts (see footnotes).

There is presented below two charts (only one chart is here reprinted), the first of which shows a distribution of the schools on two bases: (1) The percentage of procedural law *offered by member schools*; and (2) the estimated percentage of procedural law *taken by their students*.

Realizing that percentages are dangerous things, statistically speaking, your committee suggests that Chart No. 1 and the table just mentioned be examined with the following considerations in mind:

1. Schools drawing their students from a single jurisdiction sometimes offer courses in local procedural law in addition to general courses in procedure, making totals appearing herein high in contrast with that of schools whose students come from all parts of the country.

2. Schools with abundant resources might be expected to have a more liberal offering of

courses in both procedural and substantive law.

3. An offering of a large number of hours in procedural law may indicate work notable for its extension rather than its intension. On the other hand, a relatively few hours may constitute rather thorough training. Again, the reverse of both of these propositions may be true.

4. The undue stressing of procedural work, which may or may not be indicated by the figures given, may reflect a notion that in legal training the stress should be upon the acquisition of an immediate skill rather than getting such things as the power to analyze legal problems.

Subject to these and other possible qualifications it is to be observed from Chart No. 1 that the percentages of procedural law offered by 48 of a total of 57 member schools

reporting (or 81%) fall within the narrow range from 12% to 20%. As to the percentages of procedural courses taken by students, the significant range is from 10% to 22% and embraces 52 schools, or 91% of all the schools reporting. Within this range the chart obviously indicates nothing as to the quality of procedural work done and it is difficult, if, indeed, it is capable, of interpretation as to the relative merits of the different quantities of procedural work done.

The final chart (omitted here) is constructed upon a single base line ranging from zero up. For simplicity, the hours offered and taken have been thrown into groups of five for charting.

The correction of any error which may have crept into this report will be welcomed by your committee.

Herman Oliphant, Chairman.

SCHOOL	Total No. Hours Offered	Number Hours Substantive Law	Number Hours Procedural Law	Per cent. of Procedural Law	Average No. Hrs. Law Work Taken by Students	Average No. Hrs. Substantive Law	Average No. Hrs. Procedural Law	Per cent. of Procedural Law
Boston U. S. of L.....	106	93	13	12.26	88	77	11	12.5
Catholic U. of Am.....	110	71	39	35.45	106.4	75.3	31.1	29.20
Columbia Univ.	125	106	19	15.2	76	64	12	15.79
Cornell Univ.	169	90	19	17.43	82	63	19	23.17
Creighton Univ.	*103	88	15	14.56	84	71	13	15.47
Dickinson S. of L.....	84	76	8	9.52	84	76	8	9.52
Drake Univ. C. of L...	88	71.3	16.7	18.97	76	59.3	16.7	21.97
Emory Univ.	* 84	69	15	17.85	82	67	15	18.3
Geo. Wash. Univ.....	†120	105	15	12.5				
Harvard Univ.	120	110	10	8.33	72	64	8	11.11
Hastings C. of L.....	79	67	12	15.19	79	67	12	15.19
Indiana Univ.	97	84	13	13.62	75	63	12	16
McGill Univ.	87	74	13	14.94	87	74	13	14.94
Marquette Univ.	112	92	20	17.85	76	60	12	15.79
Mercer Univ.	*100	87	13	13	86.67	73.67	8	9.23
Northwestern	†161	133.63	27.37	17	88	73.74	14.17	16.1
Ohio State	88	74.6	13.4	15.22	80	70	10	12.50
Stanford Univ.	138.67	116.67	22	15.87	80	62	18	22.5
State Univ. Iowa.....	104	87	17	16.34	84	68	16	19.06
Syracuse Univ.	105	86	19	18.09	93	74	19	20.43
Tulane Univ.	89	76	13	14.6	89	76	13	14.6
Univ. California	125	109	16	12.8	76.5	67	9.5	12.41
Univ. Chicago	107	92.28	14.72	13.75	73.33	61.11	12.22	16.8
Univ. Cincinnati	82	70	12	14.63	82	70	12	14.63
Univ. Colorado	*101.3	89.3	12	11.84	83.3	72	11.3	13.56
Univ. Florida	95	70	25	26.31	90	70	20	22.22
Univ. Idaho	55	73	15	17.04	78	63	15	19.23
Univ. Illinois	129	110	19	14.73	85	67	13	21.17

*Upon verification it was found that in most cases slight, and in some cases material, variations existed between figures given in response to questionnaire and those compiled from catalogs of the schools, but the former are the ones herein set out owing to the possibility of misinterpretation of the catalogs.

†No report received and the figures are those compiled from reference to catalog—hence the omission of data as to the "Average" hour columns.

‡Northwestern University reports giving approximately 26 semester hours of courses which they were unwilling to characterize either as Substantive Law or Procedural Law, but which were included in the "Total Number Hours Offered" by the school, inasmuch as they were courses considered valuable in a legal education. They have been included arbitrarily under the head of Substantive Law and treated as such in the table. It will be noted that so doing makes no change in the "Per cent. of Procedural Law" inasmuch as the courses had already been considered under the head of "Total Number Hours Offered."

Some schools have considered Legal Bibliography a Procedural Course, while other schools have not, and hence the percentages are not strictly consistent. Furthermore, some schools require Moot Court work but give no credit for it; while other schools require Moot Court work and do give credit for it. The latter class of schools have, therefore, included Moot Court work in their list of Procedural Courses. As to the former class of schools, no credit for the Moot Court work taken appears in the "Number Hours Procedural Law" (column 3).

SCHOOL	Total No. Hours Offered	Number Hours Substantive Law	Number Hours Procedural Law	Per cent. of Procedural Law	Average No. Hrs. Law Work Taken by Students	Average No. Hrs. Substantive Law	Average No. Hrs. Procedural Law	Per cent. of Procedural Law	
Univ. Kansas	*117	100	17	14.52	88	70	16	18.6	
Univ. Kentucky	82	68	14	17.07	78	66	12	15.33	
Univ. Michigan	127	111	16	12.59	79	65	14	17.72	
Univ. Minnesota	108	92	16	14.81	84	68	16	19.06	
Univ. Mississippi.....									
Univ. Missouri	97	79	18	16.85	85	73	12	14.12	
Univ. Montana	98	78.67	19.33	19.72	35.33	66.67	18.66	21.37	
Univ. Nebraska	80	64	16	20	76	60	16	21.05	
Univ. N. Carolina.....	* 98	78	20	20.41	83	63	20	22.72	
Univ. N. Dakota.....	* 95	75	20	21.05	74	56	18	24.39	
Univ. Oklahoma	82	66	16	19.51	82	66	16	19.51	
Univ. Oregon	* 85.33	68.67	16.66	19.52	82	65.33	16.67	20.33	
Univ. Pennsylvania ..	106	82	24	22.64	82	66	16	19.51	
Univ. Pittsburgh	81	68	13	16.05	75	62	12	17.33	
Univ. Philippines	†107	90	17	15.9					
Univ. S. Dakota	*100	86	14	14	83	69	14	16.86	
Univ. S. Calif.....	†132.67	107.34	25.33	19.09					
Univ. Tennessee	96	80	10	11.11	84	72	12	14.3	
Univ. Texas	*123	108	15	12.19	84	70	14	16.67	
Univ. Virginia	90	72	18	20	90	72	18	20	
Univ. Washington	† 96.67	73.34	23.33	24.13					
Univ. Wisconsin	119	101	18	15.12	78	62.75	15.25	19.55	
Univ. Wyoming	112	96.67	15.33	12.69	80	70	10	12.5	
Vanderbilt Univ.	† 73	57	16	21.92					
Washburn College	98	81	17	17.34	76	63	13	17.1	
Washington & Lee.....	81	69	12	14.81	81	69	12	14.81	
Washington Univ.	81.2	64.45	16.77	20.65	76.53	61.43	15.1	19.73	
West Va. Univ.....	*110	90	20	18.18	88	68	20	22.72	
Western Reserve	* 96	72	24	25	84	72	12	14.28	
Yale Univ.	139	118	21	15.11	78	63	15	19.23	
Average per cent.....				16.5	Average per cent.....				17.51
Mean per cent.....				16.83	Mean per cent.....				17.05

*Upon verification it was found that in most cases slight, and in some cases material, variations existed between figures given in response to questionnaire and those compiled from catalogs of the schools, but the former are the ones herein set out owing to the possibility of misinterpretation of the catalogs.

† No report received and the figures are those compiled from reference to catalog—hence the omission of data as to the "Average" hour columns.

NOTE ON THE REPORT OF THE COMMITTEE ON CURRICULUM OF THE ASSOCIATION OF AMERICAN LAW SCHOOLS

I feel it important to point out that in assenting to the above, I do not mean to recognize that the distinction drawn in the report between "procedural" and "substantive" law is something which exists objectively. For certain practical purposes we classify law under these two terms. Apparently just where we draw the line depends upon what we are doing at the time, e. g., solving a problem in the conflict of laws, or determining the effect of state statutes on the exercise of equitable jurisdiction by the federal courts, etc. From some points of view, and I suspect from the point of view of the curriculum-makers, so-called "procedural law" is as much "substantive" as the law of "contracts." We classify the law of offer and acceptance, and of consideration, as "substantive"; the law relating to serving process, getting a jury, dividing the work between judge and jury, facts admissible as evidence, etc., as "procedural." Yet this procedural process results, if correctly carried out, in a

new substantive obligation, a debt of record. The contract, so to speak, is a home-made product; the judgment, a factory-made product. The principles which govern the structure and operations of the legal factory are in one sense, and a very real one, "substantive law." It is a much more difficult body of law to master than much of that found in the course on Contracts, and in fact most lawyers know less about its underlying theory than they do in the case of the so-called substantive law courses. I am inclined to believe that the failure of the legal profession to deal adequately with the reform of procedure is due in large part to this lack of knowledge of underlying theories.

It is also suggested that a distinction of more importance from the point of view of the curriculum maker is that between science and art, i. e., between a scientific study of the rules and principles of law, both "procedural" and "substantive," and the attempt to give the student practical drill in the art of applying these in moot courts, office practice courses, etc. It is only along the lines of this latter distinction that, it seems to me, any real problem arises.

W. W. Cook.

THE COMMITTEE ON CO-OPERATION WITH THE BENCH AND BAR

The Committee on Co-operation with the Bench and Bar beg leave to make the following report:

A wide-spread belief exists that the law is not functioning effectively. Present conditions seem to many members of our profession to call for a careful study of the operation of law in actual life. There is a tendency to look to the profession for an account of the apparent failure of the administration of certain branches of the law, notably the Criminal Law. In these circumstances your committee believes it to be the duty of the legal profession to undertake a survey of the present condition of the administration of law, and to suggest improvement and reform.

This we think can effectively be done only by the collaboration of all branches of the profession. The teachers have the habit of mind and command of their time which will enable them to investigate and think through to a conclusion; but the judgment and experience of the bench and bar are necessary in order to make a thorough assembly of the facts of the case, and to suggest reasonable changes. If such a collaboration can be secured, we may hope to reach results that will be worth while.

Three steps appear to be necessary in order that a satisfactory conclusion may be reached on any aspect of the problem: First, there must be an investigation of the facts both in the library and in the field; second, with these facts before them the three branches of the profession must confer and reach tentative conclusions; third, the teachers, on the basis of the work of such conferences, and with such further investigation as the conferences may show to be desirable, must formulate and express the mind of the profession.

This whole process turns upon conferences between bench, bar and teachers of law. Such conferences in the American Law Institute have proved practicable and exceedingly fruitful. It is believed by your committee that such conferences held for a substantial time during the summer would be resorted to by judges and by lawyers in practice as well as by teachers of law. If young lawyers could be employed throughout the year to prepare such facts as could be obtained for the use of such conferences, and the conference could meet, say for three weeks in July, and its results could then be expressed by a teacher of law who would be the reporter of the conference, it is believed that the results would be well worth the effort.

Your committee therefore make the following recommendations:

1. That a standing committee of 7 be appointed to carry through a yearly program of conferences on the administration of law.

2. That this committee select at least three schools as the scene of the conferences for each year and choose the subjects for the

conferences and select the reporter for each conference.

3. That the committee, in consultation with the reporter on each subject, employ one or two young lawyers or students of law to prepare the facts for each conference.

4. That judges, lawyers, and teachers who have particular knowledge of or are specially interested in a subject to be taken up in a conference, be invited to be present and take part in the conference as the guests of the committee; with a general invitation to all lawyers to attend.

5. That each conference be held under the presidency of the reporter and that a report of the result of it be prepared by him and presented at the next meeting of the Association.

6. That the committee be empowered to raise funds for: (1) The payment of the investigators; (2) the expenses of the conference, including an honorarium to the specially invited guests and payment of all their expenses; (3) a salary for the reporter. The method of raising this money, either by application to a Foundation or by an appeal to lawyers specially interested in the matter, may be left to the committee.

All of which it is respectfully submitted.

Henry M. Bates.
Austin T. Wright.
Everett Fraser.
M. L. Ferson.
H. S. Richards.
N. T. Dowling.
J. H. Beale.

THE COMMITTEE ON INTERNATIONAL LAW

This Committee was appointed at the meeting in Chicago in December, 1924, under the following resolution: "Resolved, that the out-going President appoint a Committee on International Law to co-operate with Mr. George W. Wickersham and other members of the bench and bar engaged in the development of International Law."

The Committee has endeavored to co-operate with Mr. George W. Wickersham, who is the American member of the League of Nations Commission on the Progressive Codification of International Law. To this end, correspondence was opened with Mr. Wickersham by the Chairman of the Committee soon after the Chicago meeting. Various members of the Committee made suggestions as to the subjects which might usefully be explored with view to ultimate codification. These suggestions were placed in Mr. Wickersham's hands before he left for Geneva in April.

The Committee held a meeting in Washington at the end of April and endeavored to arrive at some common conclusion as to a method of procedure. It was agreed then that members of the Committee would, so far as their time permits, endeavor to assist Mr. Wickersham from time to time, and some members of the Committee undertook to in-

investigate particular subjects which were thought worthy of investigation by the League of Nations Commission.

The Chairman of the Committee held a conference with Mr. Wickersham immediately upon his return from Geneva, and the subjects selected at the Geneva meeting were communicated to the various members of the Committee. Mr. Wickersham invited co-operation with reference to particular phases of each of these questions. The members of our Committee were invited to submit reports on these questions, and at least two members of the Committee are now at work on these reports.

The League of Nations Commission will hold another meeting in January, 1926. It seems desirable, therefore, that this Committee be continued and that it be left in a position to collaborate with Mr. Wickersham from time to time as the international situation further develops.

Manley O. Hudson, Chairman.

THE COMMITTEE ON JURISPRUDENCE AND LEGAL PHILOSOPHY

To the Members of the Association:

Your Committee reports that a new volume of the Modern Legal Philosophy Series has recently issued from the press—Prof. Rudolf Stammler's "Theory of Justice," translated by Professor Isaac Husik, of the University of Pennsylvania, with Appendixes by Prof. François Gény, of the University of Nancy, and Prof. J. C. H. Wu, of the Comparative Law School of Shanghai. This book has a genuinely international significance—composed by a German, translated by an American, commented on by a Frenchman and a Chinese. This Committee desires to record publicly before the Association its gratitude to Prof. Husik for the faithful and able completion of his task. Too few of the competent scholars in American Universities are willing to devote themselves to the necessary task of translation.

The remaining volume of the Series, Vanni's "Positive Philosophy of Law," is in the hands of Professor Layton B. Register, of the University of Pennsylvania, for translation, and will be ready whenever the publishers are ready.

The publishers of the Series deserve the thanks of the Association for their contribution to the Committee's work. It is to be hoped that the new prospectus of the Series, now in press, will elicit substantial support in subscriptions.

Respectfully submitted.

Morris R. Cohen,
Joseph H. Drake,
Albert Kocourek,
Ernest G. Lorenzen,
Floyd R. Mechem,
Roscoe Pound,
John H. Wigmore, Chairman.

THE COMMITTEE ON LEGAL HISTORY

Your Committee reports to the Association as follows:

A. Editorial Work.—In the Continental Legal History Series of Translations, begun in 1910, and consisting of 11 Volumes, 8 Volumes have already been published. Only 2 remain to be published, because owing to the lamented death of Professor Huvelin in 1923 (as already reported by your Committee) there is no prospect of the completion of his unfinished treatise on the History of Commercial Law (Vol. X of the Series).

Of the two remaining works, the MS. for Vol. VII of the Series has now gone to the printer, and may be expected from the press in the Spring. This is the History of Continental Civil Procedure, translated by Prof. Robert W. Millar, from the basic work of Judge Engelmann, in German, together with additional chapters from several authors, representing four or five other countries and languages.

Vol. VIII, the History of Italian Law, by Professor Calisse, translated by Professor Layton B. Register, is nearly finished, and will be ready for the printer by the time the publishers have put out Vol. VII.

Once more, the Law School world is asked to give encouragement to this Series by placing the complete set in every Library. It must be remembered that publishers find a very limited market for such works. Legal scholarship is constantly blocked by the difficulty of finding publishers who will make known to the world the fruits of that scholarship. When such publishers are found to assume the burden and the risk, the University libraries ought to do their share in supporting the enterprise.

B. Other Historical Literature.—A few other historical undertakings which deserve the support of the University branch of the profession will be mentioned for your attention.

1. The Selden Society of England needs more members. Its publications are being held back for lack of additional subscriptions to pay the expense of editing and printing. The American representative for membership is Richard W. Hale, Esq., 50 State St., Boston, Massachusetts.

2. Private advices enable us to state that Professor Holdsworth's great History of English Law (of which 6 volumes are now off the press) will be enlarged to make 9 volumes, instead of the 7 originally thought sufficient. The 9th volume will include a general index.

3. The "Revue d'histoire du droit," already mentioned in a prior report, is the only cosmopolitan periodical devoted to Comparative Legal History; its articles are published in 5 languages, English, Dutch, French, German, and Italian. The corresponding editor-in-chief is Prof. J. Van Kan, at the University of Leiden.

4. The Bibliographical Syllabus of English

Legal History, by Prof. C. C. Crawford, already mentioned in a prior report, is a labor-saving apparatus which now makes it readily feasible to install a course in English Legal History in colleges as well as law schools. We trust that colleagues on faculties of liberal arts will have their attention called to it. Such a college course would be of special service in clearing the ground for the work of law faculties, now that a period of two or more years of college study is so generally required.

Respectfully submitted.

Joseph H. Drake.

Ernst Freund.

Ernest G. Lorenzen.

William E. Mikell.

John H. Wigmore, Chairman.

GENERAL SESSIONS

First Session

Below is given the principal part of the discussion at the First Session, held at the Hotel Sherman on the morning of December 29, 1925.

The Twenty-Third Annual Meeting of the Association of American Law Schools was called to order in the Crystal Banquet Hall of the Hotel Sherman, Chicago, Illinois, at 11:15 a. m., December 29, 1925; Dean O. K. McMurray, University of California, presiding.

Secretary Aigler: As I call the roll on behalf of the school will somebody respond for those present or expecting to be present. You understand that the official record of those in attendance will be made up from the official registration cards rather than from the response you may make to this roll call.

[Roll call.]

[Secretary Aigler called the roll, sixty schools out of sixty-four being represented. The list of schools represented and delegates present will be found on p. 658.]

President McMurray: I believe it is the custom of this Association to extend the privileges of the floor and our welcome to guests who are not members of the Association. We would be very glad to have any such rise and give their names.

[Those present not representing member schools rose and announced their names and the names of their schools.]

President McMurray: If there are no other guests who desire to announce their presence, the next thing in the order of business will be announcements.

[Various announcements were made.]

President McMurray: The next order of business is a matter that must be attended to at this time, the appointment of certain special committees—the Auditing Committee and the Committee on Nominations.

I appoint on the Audit-

E. Britton, of Illinois, Joseph R. Long, of Colorado, and A. B. Cox, of Tulane.

On the Nominating Committee I appoint John M. Maguire, of Harvard, Percy Bordwell, of Iowa, Leon Green, of Texas, H. S. Richards, of Wisconsin, and M. R. Kirkwood, of Leland Stanford.

Next in the order of business is the report of the Executive Committee. This you will find on pages twelve and thirteen of the program. [See pp. 659 and 660.] The Secretary will present the report.

Secretary Aigler: I suspect that there are some who think that the main business of the Executive Committee, perhaps particularly the business of the Secretary, is to tinker with the Articles of Association—change a word here and there. I assure you that really there is something deeper in these proposals than that. As was suggested on the floor of the convention last year, the original Articles of Association were adopted to take care of a situation that existed at that time. Those Articles of Association were what seemed to be an agreement among the schools that formed the Association at that time, in the light of the conditions that then existed. Times have changed. Schools have advanced. Standards have advanced. And accordingly the Articles of Association, in laying down requirements for member schools, should advance also.

During the year the Executive Committee has held two meetings, one on April 30, at Washington, D. C., and the other on October 10, at Ann Arbor, Michigan. With the exception of the proposed amendments to the Articles of Association, which follow, the attention of the Committee at these meetings was directed to routine matters.

The Committee proposes the following changes in the Articles of Association:

The opening paragraph of Article Sixth to read:

"Law schools may be elected to membership at any meeting by a vote of the Association, but no law school shall be so elected unless for at least two years immediately preceding its application it has complied with the following requirements."

The only change there is in the two years of compliance by the applicant with the requirements of the Association before its application for membership will be considered. Heretofore, there has been no period of time prior to the time of application during which the applicant must have complied with our requirements. Now we propose that no application shall be entertained, except from a school that for two years has complied. I don't suppose that there is much that needs to be said in explanation of this proposal. It is not a particularly difficult matter for a school to comply, we will say, this fall or next fall with the requirements of the Association; but the real test as to whether the school is intending to live up to the requirements of the Association comes only in time.

So the Committee has felt that, if the school that is applying for membership has for two years lived up to the requirements, the Association was reasonably safe in electing the applicant to membership.

I move, Mr. President, on behalf of the Executive Committee, the adoption of this amendment. [Seconded.]

President McMurray: You have heard the motion on the adoption of this amendment to Article Sixth, as proposed by the Executive Committee. Any discussion?

Mr. Max Schoetz, Marquette: I rise to a point of information, which is this: Will this apply to schools who have made application under our Articles as they now are? That is, in other words, will it apply to any applications that we are going to consider this year?

President McMurray: I should think that the language was sufficiently clear, Mr. Schoetz. I should think technically that it would not apply to schools that have already applied. "But no law school shall be so elected unless for at least two years immediately preceding its application it has complied with the following requirements." I should interpret it as meaning that if a school applies next year it should have complied for two years; that is, to that extent it might be considered as semiretroactive. That is a procedural matter, and I think that would be a fair interpretation. Is that your interpretation, Mr. Aigler?

Secretary Aigler: Yes.

President McMurray: Any discussion of the section?

Mr. O. L. McCaskill, Cornell: I think we all realize the purpose of the change and the desirability of it as applied to a certain class of schools. I conceive, however, that it is not beyond the range of possibility that a university like Princeton University should establish a law school, which should immediately have a graduate basis, have a resident membership of seven or nine members, and a library of perhaps 15,000 or 20,000 volumes. I could conceive, perhaps, that the Southern Branch of the University of California might establish a law school, which should immediately develop full-fledged as a law school of this particular type.

I wonder if it would be desirable to exclude for two years law schools of this type. I conceive that it might be argued that even there the membership would be appreciated more if they were on probation for a period of two years. But I am rather inclined to think that that type of school ought to be excepted from this resolution.

I therefore, more for the purpose of raising discussion upon it than because I have any set notion upon that particular document, propose an amendment of the resolution as follows, to follow the proposed clause as it now reads: "Provided, however, that any school which at the time of its application has a library of at least 12,000 volumes,

including those mentioned in Section 6, a resident full-time faculty of at least seven members, which requires of all of its candidates for degree at the time of their admission to the school the completion of at least three years of college work as defined in Section 2, and which complies with all other requirements of this Article, shall be eligible for immediate election."

There is a double purpose in this amendment. The first purpose is that which is mentioned, to admit this type of school immediately. The second purpose would be to act as an urge to those schools that heretofore have simply come up to the minimum requirements that, if they will come up to these increased requirements, they may get in immediately. I think there can be no serious doubt that, if this standard were met by any applying school, the school was here on a permanent basis. For these two reasons I move the amendment.

President McMurray: Do I hear any second to Mr. McCaskill's suggested amendment? I hear no second.

Mr. J. F. Francis, Oklahoma: I second that amendment. I think it would be perfectly harmless.

President McMurray: You have heard Mr. McCaskill's amendment. Is there any discussion?

Secretary Aigler: I suspect that the members of the Executive Committee would not be opposed to that sort of amendment. I think at the same time all of them would question its necessity, or perhaps even its desirability. The sort of case to which he refers might, to be sure, arise, but it would happen so rarely that I dare say there would not be any real hardship in leaving it as it is proposed. That is my own judgment about it. I don't know how the other members of the Executive Committee feel about it, but I imagine about the same.

President McMurray: It might be suggested that nonmembers are entitled to the privileges of the floor and to participate in the deliberations here. The only question is whether they shall be full members with voting power.

Mr. McCaskill: I think, perhaps, I was inspired as much as anything else by a reaction against uniformity.

President McMurray: For which we have sympathy! You have heard the amendment, which has been seconded. Any further discussion? [Amendment was lost.]

President McMurray: Now it reverts to the original proposal. Do you wish any further discussion?

Mr. Robert W. Millar, Northwestern: Why cumber up the Constitution? This is a matter for the discretion of the Executive Committee. If they have any doubt about a school, they can hold back its application a little longer.

Mr. J. W. Madden, West Virginia: I should like to know whether the Executive

Committee has had the experience that seems to be suggested by this amended Article? There is no doubt that the amendment would tend to discourage some schools which otherwise would make effort to meet the requirements by putting their membership in the Association a considerable time in the future. So, unless there has been a rather definite evil, and I suppose, if there has, our experience in the past would tend to show that, I am not convinced of the necessity of the amendment.

Secretary Aigler: There are no particular abuses that the Committee had in mind. With reference to the point Mr. Madden makes, that a school considering application might be discouraged by this two-year requirement, I should only say that, if an applicant were of the type that were so easily discouraged from becoming a member of the Association, I would doubt very much whether the Association cared for its membership; anyhow, that is my individual reaction.

Mr. E. M. Morgan, Harvard: I would like to know the reason for the two years behind the applicant when he applies.

Secretary Aigler: There was no reason for taking two years, rather than three, or any other number. The only reason for taking any particular time was that there might be some data upon which the Executive Committee might base its conclusions.

Mr. Morgan: And make it an easier job for the Executive Committee?

Secretary Aigler: Not exactly easier. In some ways it is a more difficult job to examine the records for two or three years.

Mr. Morgan: I still can't see the virtue of requiring the two years' experience of this kind behind the applicant, if it is just as hard for the Executive Committee to find out—why do you require that they should have maintained the standard for two years, if they don't maintain it the next year after they come in?

Secretary Aigler: That has not been shown to be a very easy process.

Mr. Morgan: I think that is.

Mr. Edwin W. Patterson, Columbia: From my experience on the Executive Committee, I can say that this seems a highly desirable amendment. I don't think the Executive Committee can give examples of specific instances because there would be some embarrassment; but I felt, the year that I was on, that it was rather hasty to admit a school which had merely put into effect these requirements on paper. The thing that we want to do about these requirements is to promote legal education, not merely to give a school a means of advertising itself as a member of this Association. Moreover, the requirements of two years will tend to eliminate any subsequent inspection of the school, to determine whether it is living up to the requirements. One inspection will do the whole job under this arrangement; whereas, under the other arrangement, it

would be necessary to make an inspection within a short time, and inspections are very costly. It seems to me this is very good.

With reference to the other point, that the Committee has discretion, I don't think the Committee feels it has much discretion in rejecting a member who technically complies with the requirements. They figured on the whole this was the better way to do it.

Mr. C. H. Robinson, Boston: The other gentleman, whom I have not heard so very well, raised in my mind a question as to the attitude of this Association on the now members of it, and causes me to remark upon some figures which were gotten out by the West Company as to the school membership. The figures approximately as to all the students studying law are something around 40,000, and about 13,000 are studying in institutions which are members of this Association. It seems to me very significant for the future of the Bar that we should capture as many of the people who are studying law as we may, and that the tendency to heighten the bars is rather unfortunate at this time. In our own city we have a night school of 2,500 students, another night school of 1,200, a third of 500. I notice from those figures by the West Company that a new night law school has 800 to begin with.

I hoped this Association might consider the question of legal education in its entirety with reference to all the associations, and it might be possible for this Association to make some investigation as to how many of those men go into the profession and stay in the profession in the long run.

President McMurray: I hear no other discussion. I will submit the proposal. The vote is on the adoption of the opening paragraph of Article Sixth, as changed in the report of the Executive Committee. This must take place by roll call under the Articles of Association. We must vote, therefore, by members, and two-thirds are required for the purpose of adopting the amendment.

Secretary Aigler: I am sorry it is necessary to call the roll. I will try and go through it as rapidly as I can. As I call the name of the school, will somebody on behalf of the school respond?

Mr. J. P. Hall, Chicago: If it were by unanimous consent, could not that be dispensed with?

President McMurray: I should think not. It is an amendment to the Constitution. You might expedite matters by combining two of those proposals. There does not seem to be much adverse sentiment, as far as the Chair can ascertain. It might be possible to combine two.

Secretary Aigler: There is one other proposal that should go along with this one. We certainly can group these two together, so far as the roll call is concerned. I refer to the amendment proposed to Article Elev-

enth. The same change is made in Article Eleventh, simply requiring that the application shall show that for two years the applicant has been complying with the requirements.

"Applications for membership shall be addressed to the Secretary, accompanied by evidence that the school applying has, for at least two years immediately preceding, complied with the requirements as set forth in Articles Sixth and Seventh. The Executive Committee shall examine the application and report to the Association whether the applicant has fulfilled the requirements. Applications for membership shall be made at least sixty days before the meeting of the Association."

President McMurray: That is merely procedural. It carries out Article Sixth, as proposed. If there is no objection, the Chair will submit Article Sixth and Article Eleventh and the members will kindly vote.

Mr. Hall: For the purpose of saving time, could they not all be submitted, and then, if a school wished to vote for some, it could say so; if it wished to vote "yes" on some, and "no" on some, the Secretary could record that, and it would be necessary only to call one roll.

President McMurray: The Secretary thinks it would be rather difficult, with our secretarial arrangements, to record that vote.

Mr. M. S. Breckenridge, Western Reserve: As an alternative to that rather complicated solution, could we call for a rising vote, or a vote by acclamation, on the other matters, and, if we find something is overwhelmingly carried, group all that bunch together. Some of these, I have no doubt, will be carried unanimously.

President McMurray: I think we will probably save time by proceeding according to the rules. Roll call upon Articles Sixth and Eleventh.

Secretary Aigler: That is, the opening paragraph of Article Sixth and Article Eleventh. We are grouping those two together, then.

President McMurray: The proposal is adopted by a vote of fifty to six.

Secretary Aigler: The next proposal is to Section 2 of Article Sixth. As the Constitution stands at present, Section 2, Article VI, reads as follows: I won't read the first part; that is past.

"After September 1, 1925, it shall require of all candidates for its degree at the time of their admission to the school the completion either of two years of college work or such work as would be accepted for admission to the third or junior year in the College of Liberal Arts of the state university or of the principal colleges and universities in the state where the law school is located."

That is the present Section 2 of Article Sixth of the Articles of Association.

The change consists first in a verbal one, in dropping out all reference to September 1, 1925. Secondly, the important part of the

proposal is in making the second part definitive of the first part, rather than an alternative. As it is now, a candidate for admission must have completed two years of college work or have done such work that he is entitled to admission in the third or junior year of the College of Arts.

The judgment of the Executive Committee is that the two years of college work that will admit a student to a member school should be such two years of college work that the applicant for admission would be entitled to junior standing in the College of Liberal Arts.

Now I say, entitled to junior standing. That perhaps is unfortunate. I am not sure that, if the proposal were to be worded right now, I would prefer to have it something like this—I am not attempting to state the precise language, but the thought—that is, the applicant must have completed one-half of the work required for the baccalaureate degree in Letters, Arts, or Science. There are some universities, I have learned, that will simply, as a matter of rating, classification in the student body, give a student junior rating without the student having completed one-half of the work for his degree.

I take it that the idea of the Association has been throughout that what we want is that all applicants for admission to the school shall have gone half way toward their undergraduate degree. You will observe that this ties up to the undergraduate degree in the College of Liberal Arts. It does not tie it up to the work done in colleges of agriculture, or of engineering, or pharmacy, or what-not. I think it ought to be stated, though, that even if this were adopted it would not result in a young man who has completed two years in a good engineering college not being eligible for admission to the law school. It would depend on this, as to whether those two years in the engineering college, or any other college, have been of the type of work that would count toward his bachelor's degree in the arts course, and it has been my observation, at least, that most engineering colleges, and I think the same thing might be said of the agricultural colleges and schools of business administration, and so on, that most of the work in the first two years is the type of work that colleges accept as counting toward the degree in the arts college. That would be the test under this proposal.

Now, I want to make it perfectly clear just what it is that this proposal contemplates, namely, the elimination of the alternative and the making of the second part definitive of the first part, two years of college work; that is, he must have completed half of his work toward the baccalaureate degree in Liberal Arts.

I move the adoption of this proposed amendment.

Mr. Hall: I second it for the purposes of debate. I want to speak of one or two difficult

ties of interpretation as it at present reads. "As would be accepted for admission to the third or junior year." It is the practice of a considerable number of colleges to admit a student to the junior year for bookkeeping purposes in the college, conditioned sometimes in a considerable fraction of his sophomore work. That condition may be a third of a year, even, which we found some years ago, when we looked this up, so that it will not, in fact, secure in a considerable number of institutions a man's having completed half of his college work. He may be a considerable fraction less than half. On the other hand, there are a smaller number of institutions that, again for the purposes of college classification, will not call a man a junior student unless he has complied with all the requirements, both quantitatively and qualitatively, and some of the qualitative qualifications are annoying—physical culture, or some particular course in English, something of that sort. In those cases a man coming from an engineering school, or from a school of commerce and administration, would not fit in, and would have to do extra work to qualify. I take it the substantial object we wish is that a man shall have completed quantitatively half of his college work. As far as the quality is concerned, I take it we would not be interested in adhering to the niceties of a school that for its A. B. degree would insist on the man having completed for the first two years work of a particular type. What we desire is a man having had work that would be accepted by a large majority of institutions as approximately half of his college work.

As this reads, this would not cover the literal objection, or technical objection, as I take it.

President McMurray: As I take it, this portion of the second clause is the same as the Article reads at present. The difference consists of omitting an "or" and putting in "that is." So that your remarks are addressed to the existing as well as to the proposed amendment.

Mr. A. J. Harno, Illinois: At the University of Illinois, we have a large School of Commerce and Business Administration. It happens that the Law School is fed, to a considerable degree, from this college. The College of Commerce and Business Administration has a set curriculum and it is quite likely that students who have completed two years of the College of Commerce and Administration would not qualify as having met the requirement of two years on the Liberal Arts curriculum. We rather favor the College of Commerce and Business Administration in many ways, and frequently advise students to enter that school in preparing to enter the College of Law, and I am afraid this would cause us a good deal of embarrassment.

President McMurray: Any further discussion?

Mr. J. A. Crane, Pittsburgh: I have no doubt this pertains to minimum requirements, but it looks like uniform requirements. I would move to add, after the word "of," the phrase "not less than," so as to permit some of the member schools to require more than two years of college. It would then read as follows: "It shall require of all candidates for its degree at the time of their admission to the school the completion of not less than two years of college work." [Seconded.]

President McMurray: The amendment consists in the insertion of the words "not less than." Are you ready for the question?

Mr. Everett Fraser, Minnesota: The suggestion of Dean Hall, I think, is worthy of consideration. I would propose this amendment—that the words after "that is," "such work as would be accepted for admission to the third or junior year," be struck out, and the words inserted, "not less than one-half of the work required for a degree in Arts, Letters, and Science"; "not less than" incorporating the amendment suggested by Mr. Crane.

President McMurray: Mr. Crane, is that agreeable?

Mr. Crane: Yes.

President McMurray: Any second to Dean Fraser's Amendment? [Seconded.] Any discussion?

Mr. R. M. Davis, Idaho: I think he said a degree. It should be bachelor's degree in Arts, Letters, and Science.

Mr. Fraser: I'd be prepared to incorporate that.

President McMurray: The article as amended would read this way: "It shall require of all candidates for its degree at the time of their admission to the school the completion of not less than two years of college work; that is, not less than one-half of the work required for a bachelor's degree in Arts, Letters, or Science in the College of Liberal Arts."

Mr. Austin T. Wright, Pennsylvania: Some colleges, perhaps, give a degree on the three years of work. I would like to know how this is to be interpreted in that case.

Mr. L. J. Ayer, Washington: There are a number of Universities that do not require the work to be taken in the exact order for the Liberal Arts degree. For example, as the amendment reads, it would permit one-half of the work. The first two years a great many of the institutions have a certain amount of required work, which the student would get around by omitting some of the work and taking some of the work in the upper college, so that he could satisfy that requirement.

Mr. Hall: That is what we say. We don't want to tie a student down in studying law to too strict a curriculum, but by having a quantitative requirement you secure both of those aims.

Secretary Algier: It occurs to me that Mr.

Wright's very interesting problem might be solved by reversing the order of the statement—that he must have completed such work as would be acceptable as half of the work for the bachelor's degree, but in no case shall this be less than two years of college work.

Mr. Hall: Is there, in fact, any recognized institution which will give a degree quantitatively for less than a four years' course? They may allow him to complete it in three years, by taking extra work or studying summers; but I don't know of any institution that would give a degree for less than four years' work.

Mr. Wright: The word "two" suggests a time element, rather than a quantity element. To meet your suggestion the word "two" ought to be defined to mean a quantity element.

President McMurray: I wonder if it is not used in both expressions to mean a current academic expression of the current year of work.

Mr. H. S. Richards, Wisconsin: I doubt very much if we will be able to reach any decision on this in open meeting. I would therefore move that it be re-referred to the Executive Committee, to report, if possible, to the business meeting. [Seconded.]

President McMurray: The motion is that the matter be re-referred to the Executive Committee, with directions to report back to the Association at the meeting on Thursday. [The motion was carried.]

Secretary Aigler: The next proposal refers to Section 5 of article Sixth. It is the matter that was brought before the Association last year, in the hope that there would be some expression of opinion; but there was none. It is the matter of transferring special students to regular standing, so that they may receive a degree. A poll of the members of the Association disclosed that there are a considerable number in which the practice prevails of transferring in a few special cases, unusual cases, special students to regular standing. In a considerable number of schools the practice is rigid that nobody is given a degree unless he has complied with all of the entrance requirements.

The Articles of Association as they stand at present leave that rather uncertain. It has been suggested by some that our Articles forbid it. Certainly it is true that the Articles don't expressly permit it. The Executive Committee have no special desire in this matter that it be one way or the other, but we do think that there ought to be something in our Articles of Association that will clear that up. Either it ought to be made perfectly legal to transfer special students to regular standing in those unusual cases where it is done, or it should be forbidden. The proposal is:

"Students who enter with less than the academic credit required of candidates for the

law degree by Section 2 of this Article must be twenty-one years of age, and the number of such students admitted each year shall not exceed ten per cent. of the average number of students entering the school during each of the two preceding years. In no case shall any such student be transferred to regular standing, or the law degree conferred upon him, unless he shall have earned the minimum academic credit set forth in Section 2 of this Article."

That simply would open the door to the special student to make up his entrance requirements after he has taken some of his law work, rather than before he enters the law school, which is the requirement for regular standing. It is to bring the matter before the Association that I move the adoption of the amendment. [Seconded.]

Mr. G. J. Thompson, Pittsburgh: I rise to a point of information. I would like to ask if it is intended that this shall be retroactive, to apply to special students now in member schools?

President McMurray: I should not think there would be much likelihood of its being applied in that situation, having regard to the past history of the Association.

Mr. John H. Wigmore: Mr. President, I move to strike out the last sentence. Do I have a second for that? [Seconded.]

I take that attitude for myself, at any rate, because I have always stood up inside the faculty against Boards of Trustees and against other authorities for interference with the fine sense of academic independence that every faculty must, as self-respecting scholars, maintain for itself. I find the month's work and the year's work is more or less punctuated with pin pricks that tend to undermine that magnificent tradition of academic independence that ought to obtain in any body of self-respecting scholars.

Now it looks as though the association itself is intending to interfere in that ultimate right of independence. The effect of this last sentence, of course, is practically to make it impossible for any faculty to exercise its right of judgment in such matters, because, when a man is twenty-five or thirty years of age, and enters the law school under the ten per cent. rule, it is virtually for them to say to him at that time: "You may, after two years of college, finally appear for your degree." It practically prevents, then, though it does not on the face of it, any exercise of individual discretion by a faculty in promoting to a law degree one who in the faculty's judgment has fulfilled all the requirements of law study, but still lacks the formal requirement of two years of college training.

I have not been particularly a friend of the under dog, but I have always liked to feel that I stood for the individual case. Our rule, for I don't know how many years past, but since I remember, has permitted this transaction. I can't give you figures as to the

number of men who are treated that way in any one year. They are negligible, but the possibility remains always. I don't know how it is with the rest of you, but certainly no year passes but what you will find in front of you a man or two who has had an extraordinary and unusual career. He may be twenty-five; he may be thirty; he may be forty, or forty-five; but he is as big a man intellectually as you are, and he is willing to buckle down at that age and spend the time on the technical studies of law. But he has not had the college training in his day, and he never can get it now. I believe in leaving the door open for such a man.

Of course, a rule like this for a mass of schools is intended to prevent abuses, and you can't inspect every school all the time and prevent abuses. But with the ten per cent. limitation, and with other auxiliary devices instead of this, that could readily be employed, such as annual reports of the numbers of such men, I feel sure that this Association could protect itself on the whole against abuses. And going back to my fundamental proposition, I ask you to remember that there has got to be some trust in the good faith of the faculties that have the honor to belong to this Association, and that a complete distrust is quite needless. My own convictions are so strong on this subject that, rather than see our faculty surrender its academic independence in a matter like this, I would rather see it leave the Association.

President McMurray: Dean Wigmore's amendment is in effect an argument against the adoption of this amendment. It would leave the situation standing as it reads at present. Therefore I think it would be desirable for us to vote upon his amendment, because we can do that viva voce, without the necessity of a roll call; although it is a little irregular, I will submit the amendment, if there is no objection. Any discussion of the amendment of Dean Wigmore, which means simply to strike out the last section of the proposal, leaving the matter to stand as it reads at present in our amended Articles? [The motion was carried.]

Secretary Algier: The next proposal refers to Article Seventh.

President McMurray: The proposal simply involves adding a new paragraph as follows:

"Any school which shall fail to maintain the requirements provided for in Article Sixth, or such standard as may hereafter be adopted by resolution of the Association, shall be excluded from the Association by a vote at the general meeting, but may be reinstated at a subsequent meeting on proof that it is then bona fide fulfilling such requirement.

"Any member school which shall fail to be represented by some member of its faculty at the annual meeting at least once in any three-year period shall be deemed to have discontinued its membership."

I move its adoption. [Seconded.]

Mr. H. C. Jones, Iowa: I rise to second the motion and to move the addition of the word "full-time" after the word "some," so that it will read "Any member school which shall fail to be represented by some full-time member."

President McMurray: That is an amendment, I take it, Mr. Jones. It has been suggested the word "full-time" be inserted, so that, instead of being represented by a member of the faculty, it must be represented by a full-time member of the faculty.

Mr. Hall: I merely wish to call attention that this legislates the University of the Philippines out of the Association. It is quite unlikely a member of their own faculty would come once in three years. They can appoint a representative, as they have done on some other occasions. It is no hardship on universities in the United States, but if it is deemed important that the University of the Philippines be represented, I think it should be confined to the United States. After "member school" put in the words "located in the continental United States."

Mr. Jones: I am willing to accept the amendment, by inserting the words: "Any member school located in the continental United States."

Mr. Wm. G. Hale, Oregon: Mr. Jones' amendment and Mr. Hall's amendment raise two entirely distinct questions. I am very much in favor of Mr. Hall's amendment, and I am very much opposed to Mr. Jones' amendment. I think we ought to vote on them separately.

President McMurray: I think they are diametrically opposed.

Mr. Hall: I withdraw my motion, so that Mr. Jones' may be voted on.

President McMurray: The vote, then, is upon Mr. Jones' amendment, which is the insertion of the word "full-time," so that it will read, "Any member school which shall fail to be represented by some full-time member of its faculty," etc.

The noes seem to have it. [Division is called for.]

Those who favor Mr. Jones' amendment will please rise. The noes please rise. It seems to be lost. The vote stands fifty-two ayes, fifty-three noes.

Member: As a point of order, would not the proper way be to vote by schools? Have not some schools five or six representatives here?

President McMurray: When we come to vote upon the whole amendment, that method will be used. As I remember, these preliminary amendments have been discussed from the floor.

Mr. Ayer: You are going to decide these questions by representation from schools having five or six members present.

President McMurray: You are entitled to call for a vote by schools. The articles provide that any member calling for a vote by

roll call may have it. The demand has been made for the roll call.

Secretary Aigler: That will require consultation among the members of the various school faculties. I think we had better have the roll call the first thing when we gather after luncheon. The time for adjournment has come. [Adjourned at 12:35.]

Second Session

The Second Session opened on Tuesday, December 29, at 2:15 p. m., with the vote on the amendment to Article 7 of the Articles of the Association. Following the vote on this question the President, Mr. Orrin K. McMurray, delivered his address, entitled "The Place of Research in the American Law School." This address is given in full on page 631 of this magazine. The discussion following the President's address is given below. Below is also given the discussion of the address of Hon. Learned Hand, entitled "Have the Bench and Bar Anything to Contribute to the Teaching of Law?" Judge Hand's address is given in full on page 621 of this magazine.

President McMurray: I think, at the adjournment this morning, we were on the point of taking a roll call at the request of one of the delegates of a vote by members on the proposition to amend Article Seventh, which is found in the report of the Executive Committee. The amendment was to the second paragraph of Article Seventh and consists in putting in the words "full-time" after the word "some."

Mr. Schoetz: The Chair announced the result of the vote before a request was made for a vote by schools, and therefore this roll call is now out of order.

President McMurray: I think that would be a very narrow interpretation, to disregard the fundamental spirit of this amendment. The Chair overrules the point of order.

Secretary Aigler: The question, I suppose everybody understands, is on the insertion of the word "full-time" at the end of that first line of the last paragraph that we have under consideration. [Roll call.]

President McMurray: The result is, ayes 26, and noes 27, so the amendment is lost.

President McMurray: The question now reverts to the original proposition. The vote on this must also be by roll call, because this is an amendment to the Constitution. [Roll call. The vote was 53 in favor, and 2 against adoption.]

President McMurray: It has been suggested that we postpone the consideration of Article Sixth, on which there is likely to be considerable discussion, until later.

I will now ask Professor Corbin to take the Chair.

President McMurray: Gentlemen, I trust that what I have to say will at least have the merit of brevity. I have tried to recognize the difficulties that occur in these overheated rooms and make my remarks as brief as possible. [Here followed the President's address. See page 631 of this magazine.]

Chairman Corbin: A discussion of President McMurray's very interesting address will now be opened by Professor Francis S. Philbrick of Illinois.

Discussion of the President's Address

Mr. Philbrick: Mr. President and Gentlemen: It has seemed to me best, on the whole, to formulate what ideas I had on this subject with relative independence, rather than attempt to make my remarks a running commentary upon what the President said in his address. I hope that you will pardon me in that respect.

The approval of law school training by the American Bar Association, and the consequent action of our state bar examiners, are binding us formally to the preparation of candidates for the bar, and seem to make that more than ever our primary duty. And yet the total omission of research courses from our curriculum is on its very face grotesque. Research—if I may remind you of a fairy story—is the Cinderella in the house of law. She weaves the stuff, and cuts and shapes the garments; yea, she attends to every detail of the toilet of her half-sisters—Equity, Property, and all the rest. When all others sleep, she still toils and polishes, and nevertheless we condemn her to sleep in the ashes of the hearth, whose fire she alone lights and tends. Nor is she allowed to attend our curriculum ball, notwithstanding that upstarts like Labor Law and Restraint of Trade (and various others in the past) have broken by the butler at the door, and snatching garments from the wardrobes of Equity and Torts and Constitutional Law, are brazenly crowding their elders and betters on the dancing floor. And why, pray, should we thus slight Research, though so beautiful and so efficient? Her sisters in nearby faculty houses look askance at us for our treatment of her. Her relatives in foreign homes of law are treated with honor. She has handsome jewels, which we ourselves once gave her—the Select Essays in Anglo-American Legal History, the Continental Legal History series, the Legal Philosophy series. And now our President gallantly urges us to reserve for her places on our dancing programs. And the question is: What shall we do about it?

Dropping the metaphor, our President has stated that law teachers are increasingly interested in the relation of law to actual life. It was once believed that the case method sufficed of itself to teach us that; that, in

mastering through cases the rules of law, we not only learned "the true meaning of legal doctrines when applied to fact," and "the notion of justice," but also studied these rules as applied to the affairs of life.¹

The case method, we now realize, is imperfect. Mr. Kocourek complains that the student's mind is so enervated by "the moving pictures of the case method" that he is incapable of abstract juristic analysis. On the other hand, the proponents of functional study complain of an excess of analysis and history. And very probably both are right to some extent.

It is true that "the law and the lawyers treat all causes in terms of legalistics, and not in terms of the general experience of mankind"²—because the revision of the legal rules cannot keep pace with that experience. It is true, too, that this disregard of the functional viewpoint means gradual death to any legal doctrine. No doubt, therefore, we all agree with Mr. McMurray that it is important "to know how the law works, rather than how this rule or how that doctrine harmonizes with other rules or doctrines laid down by judges or text-writers, or how the rule or doctrine came to be what it is." Notwithstanding all these admissions, however, it by no means follows that to deal primarily with this more important question is at present feasible for the law school, nor that to do so can ever be the proper ideal of the law school as such. Moreover, I hold a slightly critical attitude towards our President's statement that law teachers "of the present" have "shifted" their interests to the functional field.

Let me refer first to this last, and relatively least important, point. The novelty of the functional attitude is frequently exaggerated, and thereby injustice is done, I think, to earlier teachers, and even to the lowly practitioner, who is our contemporary. The functional attitude cannot fairly be exclusively appropriated by any teacher since Ames, although much good may come from the greater emphasis latterly placed upon it. It is noteworthy that, in the only formal statement ever made by Ames³ respecting the significance for the future of the American Law School, he referred, solely, to the law teacher's opportunity of influencing the law's development, by his advice in legislation and by his writings, and declared that "the chief value" of these would be their power to teach judges that "it is the function of law to work out in terms of legal principle the rules that will give the utmost possible effect to the legitimate needs and purposes of man." This attitude, I am entirely satisfied by inquiry of his students,

was always present, and abundantly evidenced in his teaching. The functional school goes back at least to Ames. However, talk of function was not in his day the fashion, nor was Ames a sufficiently militant reformer to make it such.

Another thing to which I would take exception is the constant talk about a benighted Historical School as something still existing among us, for the apparent purpose of exaggerating the shift toward juristic rectitude which is assumed to characterize contemporary teaching. It is complained that belief in the Historical School has kept teachers of law in "cloistered retreats,"⁴ from which we are exhorted to emerge. Now we all know what Blackstone told boys in 1758 at Oxford; we all know how James C. Carter reacted when appalled by the threat of legislative codes. But has any one of you ever or anywhere discovered either a law teacher or a practitioner who did not realize that the law is a growth, effected through statutes and decisions? For my part, I utterly disbelieve in the existence of any American teacher of law, by any method, for fifty years past, who rejected the proposition just stated. In truth, the terrible Historical School is only a dummy, which has been useful in arousing enthusiasm for the functional ideal, but which might safely now be buried.

But I pass from these matters of mere personal, and possibly oversensitive, reaction to the more important question whether functional research can be or ought to be our primary or exclusive ideal in the law school. I do not allege that anybody has explicitly stated that we should confine ourselves exclusively to functional research. Nevertheless the suggestion that we should do so, either exclusively or primarily, however, seems to be implicit in current preachments of functional salvation. My remarks to-day are solely in criticism of the apparent exaggeration of these preachments. I merely wish to emphasize that Teleological and Dynamic Jurisprudence (to use Mr. Hohfeld's terminology) are properly to be regarded as Hohfeld regarded them⁵—merely parts, essential, but no more so than others, of a complete and vital curriculum.

Aside from possible differences of emphasis, we are doubtless all in sympathy with functional research, and with functional activity of law teachers outside of the law school. To collect and classify in a seminar like that of Von Liszt the facts showing the social working of rules within any field of law would clearly be a great public service. Dean Richards reported in 1911 that such a study of our judicial system had been proceeding for several years at Wisconsin.⁶ Professor Ely (unfortunately without ade-

¹ A. V. Dicey, 2 Law Quar. Rev. 88.

² W. B. Hale, 5 Am. Law School Rev. 168.

³ In 1901, at the dedication of the building of the Law School of the University of Pennsylvania, "Lectures," pp. 360-366.

⁴ Dr. Hazeltine's preface (p. xiii) to Dean Pound's "Interpretations of Legal History."

⁵ Reprinted "Legal Essays," pp. 338, 351, 355, 357.

⁶ 3 Am. Law School Rev. p. 9.

quate co-operation with lawyers) has for years been pursuing, first at Wisconsin, and now at Northwestern, the immensely important question of the relation of our property and contract law to the distribution of wealth. Dean Wigmore has for years included in his scheme of an ideal school such studies of the living law. But, whatever the alluring promise of such research, we should not forget that the line between the practical and impractical falls in different places, according as we act inside or outside of the law school.

The functional study of any legal rule takes us across the line between law and other social sciences. The scope of such extra-legal study our President has most interestingly illustrated by reference to the treatment of negligent injuries, and by Professor Lorenzen's description of the Seminar of Professor Von Liszt. It is evident that in such studies law teachers must have the aid of non-legal social experts (social workers, economists, teachers of government, business men, politicians), either in person or in written record, and that, even after definite functional choices have been made, the problem remains of their expression in modifications of the existing law, the accomplishment of which again involves the co-operation of outside agencies.

✓ It would seem, then (1) that functional research cannot be done in the law school alone, nor by law teachers alone; and (2) that in any ordinary law course we must perforce devote primary attention to the historical and analytical elucidation of the substantive rules, the development of the logical or historical pattern of the existing law. We can only hint at the functional adjustment of law to social conditions; a functional attitude can alone find expression. In short, most of us must continue to teach as we have taught hitherto; that is, with as close an attention as for each is possible to the remark of Justice Holmes that the way in which to gain a liberal view of our subject is, "in the first place, to follow the existing body of dogma into its highest generalizations by the help of jurisprudence; next, to discover from history how it has come to be what it is; and, finally, so far as you can, to consider the ends which the several rules seeks to accomplish, the reasons why those ends are desired, and whether they are worth the price."

Now, if this conclusion be sound with respect to our teaching, it would seem evident that we should not confine research in the law school to things that cannot be taught. To neglect research in the nonfunctional field is consequently at once premature, undesirable, and impractical.

As a matter of fact, who will undertake to say what research is functional, or practical, and what research is not? Let us look at concrete examples. Dean Huston's study of decrees in equity was vivified by the functional

question whether decrees operating solely in personam satisfy present needs; but are we to ignore his historical research, or his analytical discussion of the nature of the interest of the cestui que trust? Will anybody contend that the only excuse for the latter contributions is their union with the question of present reform?

To suggest another field for research, because closely related to Dean Huston's (dozens of others might be instanced were there time), various studies might be made of the relation, the interaction, and the fusion of common law and equity; shall we exclude from these the history of the common-law actions in Pennsylvania and elsewhere before the open introduction of an equity system, and the general history of the fate of those actions in America, on the ground that these matters are purely historical? Would it not be worth while to determine the present location and the past history, in all fields of the law, of the line between real and personal property, regardless of any present plan of relocating or of obliterating that line? To answer this question negatively is, of course, to assume an answer (contrary to that assumed in the past) to the only fundamental question involved, namely, whether such a line is to be regarded as desirable.

Having thus merely reminded you that it is exceedingly difficult, if not impossible, and also undesirable, to separate analytical, historical, and functional research, it may also be remarked that in practice it will prove exceedingly difficult to distinguish between functional research and mere impressionistic judgments—choices of what we consider desirable, that merely reflect the prejudices of our time. Take the question whether a conditional vendor may reclaim his property from a bona fide purchaser for value from the conditional vendee in possession. As to the social preferability of one answer or another to this question there has been abundant opportunity for objective research—by the states which successively adopted the affirmative answer; by the commissioners on uniform state laws, who adopted that answer; by the Supreme Court of Illinois, which long maintained the contrary; by the same court in recently repudiating all its former decisions. No record of functional research is evidenced, however, in the very recent opinion of the Illinois Supreme Court; the opinion merely evidences a desire to fall into line with other states. Did those other states, as they successively established their rule, do anything more?

Certainly the commissioners on uniform laws, whose object was to prepare a law generally acceptable, might quite rightly merely have counted jurisdictions, and (the weight of authority being overwhelmingly for one view) presumably they did. Even when Lord Mansfield consulted his expert jurymen, did not these presumably merely report the practice

observed in the city, and which was consequently there preferred, with no thought of questioning whether other rules might not, possibly aprioristically considered to be preferable? Suppose the question were whether our Anglo-American rule refusing, or a foreign rule granting, protection to a bona fide purchaser of negotiable paper who takes through a forged indorsement, is socially more desirable, or whether, after one mortgage in a series has been paid, a legal system is preferable which permits, or another which (like ours) forbids, the insertion of a new mortgage into, and as of, the vacated rank, without priority agreements. I venture to predict that with reference to countless questions of this kind our functional choices would prove to be as coincident with our prevalent practices as the votes of the Supreme Court Justices in the Hayes-Tilden contest were coincident with their political affiliations.

Take an example of another kind. John C. Gray remarked⁷ of *Pells v. Brown* (by which a divided court decided in 1820 that a common recovery would not destroy contingent future interest created by will) that under the rule of that decision "probably billions upon billions of property have gone to persons to whom they would not have gone" otherwise. What functional research would be possible with reference to such a question? than which, evidently, no other could be of greater social importance. We cannot simply weigh the personal merits of X, to whom the property goes, against those of Y, to whom it might have gone, but for our rule; although, if Y happened to be a charity or a relative of the half-blood (e. g.), prejudices might becloud the Olympian objectivity of legal decisions into which such weighing of the parties' merits does not supposedly enter. Nor could we get far in our researches though inquiries in the community respecting the social operation of such a highly technical rule; for, as Mr. Gray remarks, of the time when that rule was established, "there was not one man in England out of ten thousand, not one out of fifty thousand, who had any belief upon the question or who would even have understood what it meant;" and the same is, of course, true to-day. With reference to all such questions we could at best merely act upon our impressionistic judgments respecting the latitude properly allowable to testators; the general desirability, in order to protect testators' wishes, of making future interests indestructible; the concessions to be made to history, to analogy, and to logical consistency in our development of the law, and so on. What is true of the rule chosen for illustration is true of thousands of other technical rules. There is a vast portion of law which lies beyond effective objective investigation. Our

"judgments" upon such law merely express our social and economic reactions or opinions.

It may be granted, however, that in many other cases true functional research will, at least theoretically, be possible—in gathering statistics of litigation; in consulting the interests of debtors and creditors, of business men and farmers; in striking a balance between political tradition, economic considerations, and politics. But, as already said, that balance cannot be struck merely by law teachers or in a mere law school; for I decline to admit that everything which we should study in order to improve the law (or our knowledge of the law) is, therefore, "law." To be justly struck, moreover, it demands almost superhuman discrimination and wisdom. I wonder whether the attempt will not bring us back merely to impressionism and prejudice.

This brings me, lastly, to the question: What can we reasonably hope to do with research in our law schools as they now exist, or are likely soon to be? In referring to this, it is not customary to make—and our President did not clearly and consistently make—a distinction which is certainly important, but which is perhaps so evident that it might be taken for granted, namely, that the question stated must be answered differently with reference (1) to students; (2) the work of instructors within the law school; and (3) the activities of instructors outside of the law school.

As respects our students, our situation is indeed in one respect fortunate; for, while in other fields only advanced students work habitually with source materials, our students do so almost exclusively from the beginning. Thus, even in schools not requiring a college degree for entrance, we have an advantage in meeting the problem of developing intellectual interests amid a debauch of college amusements—which nevertheless remains a problem. The gradual rise of the cultural level of the student body since 1902, referred to by our President, is of some promise in relation to research, inasmuch as a student's capacity therefor depends somewhat upon maturity, and also because the likelihood of some instructor's striking fire upon a student's mind depends somewhat upon the breadth of the latter's intellectual contacts.

Nevertheless, little can be done, I think, in research with undergraduate students. The ablest will write case notes for our law reviews; the quality of these can be improved by giving credit for their preparation in a regular course. In schools that grant the J. D. degree to those tyros in law who have received a relatively good preliminary training, the original prostitution of that degree can gradually be remedied, and something useful done for research, by striving to follow the recommendation of the Association of American Universities that the re-

⁷ "Nature and Sources of the Law" (1st Ed.) para. 503, 506.

quirements for the J. D. be made equivalent to those that exist for the Ph. D.

Such study is not to be confused, however, with true graduate study in law. "The true graduate student is not one who in desultory fashion takes up the elementary study of subjects hitherto unfamiliar, but rather one who devotes himself to the intensive cultivation of a particular designated field of knowledge, for which task he has already prepared himself by a substantial training in its more elementary parts."⁸ That is quoted from President Butler. It is only with true graduate students that serious research can be accomplished, unless in decidedly rare cases. In an article just published Dean Pound⁹ remarks:

"If our law schools were endowed and equipped for research as our medical schools are, we might expect great things from them. Nowhere else shall we find the conditions of continuity of investigation, permanence of tenure, independence of politics, and assured competency, scientific spirit, and scientific method, without which the necessary research will fall short of its purpose. We cannot expect legislative commissions at all comparable to the English royal commissions of the last century. We can expect our law schools, through chairs of criminal law, of legislation, of judicial organization and administration, and of comparative law, to lay broad and deep foundations on which our legislators can build with confidence."

Such a program assumes a graduate school. Indeed, except with reference to graduate study, it would even be undesirable. In my opinion, such chairs in ordinary undergraduate schools could only serve for advertising purposes. But, even as a program for graduate schools, the experience of the last two decades would not indicate that its realization can reasonably be expected in more than a very few schools. There is, for example, not one chair of criminology in this country, or at least there was none only a few years ago, when no such place could be found for Professor Von Liszt—nor even an opportunity to deliver lectures in this country, and so help himself and others in a time of misery abroad. Such conditions are a reproach. But such chairs have not been regarded as "practical." (Even our functional reformers seem to be tarred with this same brush of practicality.)

So much as to students. Then, secondly, what of teachers of law? It is evident that there is no instructor, trained as all of us are to the constant use of legal sources, who could not do valuable research, if his school would make this possible. But, so long as graduate students are lacking, seminars of the European type—i. e., advanced classes,

organized for the utilization of the instructor's current research—cannot be realities. Therefore our research, for the present and in undergraduate schools, must be done apart from class-room activities. And that raises the question whether university authorities will go far in supporting such research. It is possible that the effectiveness of our agitation for higher entrance requirements and longer law school training for the bar may justify us in being optimistic on this point; but I doubt it. It is also probable that the existence of the American Law Institute, and the impression which its labors make upon the bar of the country, will prove to be of crucial importance in this connection.

If research is desirable, it would seem that encouragement might well take the following forms:¹⁰

(1) We need a revision of Stimson's "American Statute Law"; an undertaking which no publishing company has attempted, and which perhaps none could afford to risk. However, Mr. Stimson, with but one assistant, prepared the first volume of his work in the office hours of five years. The undertaking, therefore, does not seem to be enormous.

(2) The teaching burden on instructors who undertake research must be lightened. It would seem that this should be done for one who undertakes the preparation of a work for a private publisher as much as though he were writing (for example) for the Law Institute; otherwise, we show little regard for our alleged faith in the improvement of the law by our own efforts.

(3) Advanced courses should be developed, in which instructors can organize and utilize the results of their research. Research professorships, wholly divorced from teaching (opposed by the British Association of University Teachers), seem especially undesirable for us, who struggle against the feeling of practitioners—passed from them to students—that all academic work is impractical, and "learning" in particular.

(4) Adequate secretarial assistance should be given to all teachers.

(5) Our schools should pay all traveling expenses of their instructors, especially in the summer vacation, that are incidental to research.

(6) The transfer of books for research purposes should be organized and developed through the Association of Law Libraries.

Work of the Law Institute will probably also prove to be of crucial importance as an argument for undertakings outside of the law school. On the whole, these are probably less important than the development of individual research within the school. Most of us must accept philosophically, as regards extra-scholastic activities, the admonitions of Dean Richards, expressed in discussion of

⁸ President Butler of Columbia University; annual report for 1917-18, p. 20.

⁹ "The Crisis in American Law," Harper's Mag., January, 1926, p. 162.

¹⁰ Compare the "Bulletin" of the American Association of University Professors, vol. 11, p. 300 et seq.

Professor Vance's presidential address of 1911:¹¹

"The teacher should come to his standing as a legal expert, not as an end in itself, but as the incidental result of his endeavor to make himself an efficient teacher, which he can only be in the best sense of the term when he has mastered his subject. * * * The title of expert has been lightly bestowed in these days of rapid fluctuations in social and political theory. * * * The profession, also, is too recent for any considerable number of law teachers to stand out conspicuously as legal experts. * * * Unfortunately the present agitation for law reform centers in questions of public law and procedure. Three-fourths of a course in a law school is occupied with courses in private law. It is absurd to expect that men whose whole study and experience has been with questions of private law can properly be regarded as experts in public law."

I will suggest only one example (not now explicitly suggested by Mr. McMurray, but one of which he and I have spoken in the past) of research that it would be feasible for us to undertake, namely, systematic surveys of the law in our respective states, perhaps silently, with no obligation to complete the survey within five or within twenty-five years. Wherever there is a law review serving local ends, this is already being done in piecemeal and desultory fashion. Such surveys would reveal weaknesses which we might induce our local bar associations to discuss, and differences between the legal systems of adjoining states that might well be discussed in joint meetings of their bar associations. Such an undertaking requires nothing new except the effort.

Chairman Corbin: The discussion will now be continued by Mr. E. W. Patterson, of Columbia.

Mr. Edwin W. Patterson: Mr. Chairman and Gentlemen: I have a paper prepared to read, but I have decided to talk extemporaneously on the subject, because you have listened to two papers, and perhaps a little extemporaneous talk will be a change.

I don't take exception to Professor Philbrick's insistence that there is room in the law school for what he calls an analytical and historical research, as well as what he calls functional research. I take it there is room for all kinds of research, and I don't quite understand his insistence upon that position, as if the people who advocated functional research were not thinking of historical research at all.

Research in the economic and political records of the fifteenth century in England might be functional research, it seems to me, because it might develop the function of the real property institutions or some other institutions prevalent at that time. The other

points in Mr. Philbrick's paper I shall perhaps touch upon as I go along.

Dean McMurray has so well outlined the historical background of research work in American law schools that critical comment seems unnecessary. Briefly, the high lights in his address are: First, that research in American law schools has been unduly delayed, because of the juristic philosophy that the law is discovered and not made, and by the professional conservatism of lawyers and law teachers, and because of the fact that the American law school in its origin was a trade school, which has only within recent years been graduated into the ranks of the truly professional and research schools of our universities; secondly, that the economic prosperity of our country and the increased popular interest in collegiate and professional education have brought to our doors an ever-increasing number of law students, and have thus given us an unparalleled opportunity to develop the best human resources of our nation for the furtherance of research as a part of legal education; and, thirdly, that this Association, through its insistence upon higher standards of admission and of law training, as well as through its publication of works of legal history, legal philosophy, and comparative law, has paved the way for this development. Still, we are only upon the threshold of the undertaking. President McMurray has put forth only tentative suggestions as to the ways and means by which the undertaking is to be carried from this point forward. As he has prudently confined his attention chiefly to the past, I hope that I may be pardoned if I shall rush in where he has feared to tread—into the realm of prophecy.

I wish to discuss three aspects of research in American law schools: First, the scope or object of research; second, the personnel of research; and, third, the methods of research.

At the outset of our inquiry we are met with the question: What is research? Wherein does it differ, if at all, from mere search? If a lawyer, in briefing a case on appeal, reads all the cases on a point, and summarizes them, with critical comments, in his brief, has he done a piece of research? If a law teacher, before dashing into the class-room, reads a half dozen outside cases, has he done research? Suppose he culls the digest and reads all the cases on a point; is this yet research?

In the laboratory sciences, the term "research" has, I think, a commonly accepted meaning, namely, an investigation of the data of the science under a high degree of human control, control exercised with a particular problem in view, so that the conditions may be varied, in order to determine the factors in the particular results. But law schools have no such laboratories in this sense, because the data of juristic science are

¹¹ Supra, note (6), at pp. 8-9.

human conduct, and we have no way of measuring human conduct in the law school laboratory under conditions of adequate control. Professor Philbrick seemed to intimate that the data of our science are the law books, but I don't agree with that. Sometimes we speak of the law library as the law students' laboratory. I think that is misleading.

The characteristic of research, it seems to me, is that it is aimed to discover something new, to discover new truths or to put firmer foundations under old ones. A squirrel digging for nuts may uncover a gold mine, but one would not say that the squirrel had discovered the gold mine, and so the object of research is not merely to uncover the data which may lead to something later. It is to discover some new truth.

Research in American law schools may be classed into pedagogical research and legal research. We must not overlook pedagogical research. One subject of pedagogical research is the curriculum. An investigation of the topics that actually arise in law offices by a questionnaire method, or by some other method, might disclose that we are neglecting some important topics in our law school courses. For instance, it occurs to me that we might find by an investigation that the subject of receiverships was very important to the practicing lawyer and involved highly interesting problems. Then we might find that our picture of equitable remedies in our standard courses in equity is one-sided, out of focus. We talk about the writ of assistance and the writ of sequestration, but we omit the receivership. Again, we should investigate what subjects are uppermost in the public mind with respect to the law. We might find, for instance, that we are unduly underemphasizing the importance of criminal law and criminology.

A second phase of pedagogical research is examinations. We should endeavor to improve the examination as a tool for eliminating the unfit, either before or after they enter the law school. Dean Ferson, of North Carolina, in a recent number of the American Law School Review, has given an interesting suggestion of the use of placement examinations in the early stages of the law students' work in the law school, and those examinations, I understand, have been tried in three schools this fall. We shall await with interest the publication of the results of those experiments.

At Columbia for a number of years a general psychological test has been given to each entering class, with a view to devising a test whereby to exclude a certain percentage of those unfitted to pursue the study of law. The results thus far indicate that very few of those who have a low rank in the psychological examination subsequently do good law work. At Columbia, also, for a number of years true-false examinations of the psychological type have been given in

connection with the essay type examination, the conventional type of examination, with a view to devising a more objective measure of the student's capacity than is found in the essay type. The results thus far have been satisfactory. Those are merely illustrations which occurred to me from my own experience. You doubtless can supplement the list.

Legal research may be divided into two classes, logical-historical and sociological. By logical-historical research I mean an investigation of the reported cases, statutes, and other literary forms of the law. The ultimate data of juristic science, the thing which the law has ultimately to do with, the behavior of human beings, is seen only through the highly artificial medium of the statements of fact in the reported cases. Those statements of fact are selected to fit into the legal mould; out of the voluminous record the reporter or the judge picks the facts that fit into the mould, and leaves out the others. The characteristic method of that type of research, as you know, is to compare and contrast cases and reconcile them, to extract from those cases their common features and to generalize those common features in the form of rules or principles, and to synthesize those rules or principles into a system which is tempered by its logical consistency and its æsthetic harmonies. Of course, this whole process is bound by, governed by, it seems to me, the particular researcher's own individual beliefs on the questions of policy which are inevitably involved, and those beliefs may be articulated or may not be articulated; he may not even know that he is making a choice between one policy and another. This type of research seeks to measure the law by a standard derived from within the law.

Now, I am not belittling this type of research. It has given us such valuable treatises as Wigmore on Evidence and Williston on Sales, not to mention others. The ease, comparatively, with which it can be conducted in a fairly good sized library will make it continue to be the prevailing type of research. I went over the last-bound volumes of two of the law reviews, and I discovered that there was only one article in each volume which could not properly be assigned to the logical-historical type of research, so far as I could tell by a somewhat cursory examination.

By sociological research I mean the type of research which Dean Pound has made familiar to us by his writings on Sociological Jurisprudence. The object of this type of research is to test the law by some standard derived from outside the law. I include, not only investigation of sociological and economic data, but also the investigation of administrative and judicial records. Some say we should leave to the economist and sociologist the investigation of the data of those fields; so far as their results parallel

our legal problems, we may conveniently and safely do so. But the vital process in any research is the selection of the data, and that selection should be done by a person who is familiar with legal problems. You cannot expect the economist or the sociologist, who is not trained in law, to select the data for the solution of legal problems. The Harvard School of Business Administration has recognized this by calling one of our brilliant law teachers to supervise the work of collecting a museum of forms of business contracts in use in this country.

I cannot agree with Dean McMurray's intimation that sociological research involves peeping over the fence. There is no fence. It exists only in the paradise of juristic concepts of which Von Ihering feelingly wrote. The dividing line between the work of the juristic researcher and the sociological or economic researcher must be determined purely by reference to expediency, and will vary with the particular problem. For instance, if we are to investigate the relation between insanity and crime, I suppose that we could assign to the psychiatrist the observation and treatment of insanity. On the other hand, we could assign to the legal draftsman the drawing of a statute to carry into effect the conclusions reached, but it seems to me the problem of the relation between insanity and crime would inevitably involve research by experts in both fields.

Research into the records of judicial and administrative tribunals lies even closer at hand. Some years ago Professor Whittier, of Stanford, in the *Harvard Law Review*, published a study of the reversals and affirmances in appellate courts in jurisdictions which did, and those which did not, have notice pleading. The study of the records of courts of first instance would be even more interesting, and would yield more reliable results, I suppose, because of the far greater number of instances, which would tend to eliminate the element of pure chance.

I should like, for example—to continue Professor Philbrick's suggestion—I should like to see a study made of the judicial records of one code state (say New York or Ohio) and one non-code state (say New Jersey), to determine whether we have gained anything by the "fusion" of law and equity.

Now, as to the personnel of research. Obviously, most of the research in American law schools will be done by the full-time members of the faculty, and I agree with the suggestion that a teacher who shows interest in and capacity for research should be relieved of a part of his teaching burden. I don't think that the establishment of purely research professorships would in most instances be desirable. The contact with students is a valuable stimulus to research. Furthermore, I should think that the schools might well proceed upon the basis of each individual case. If a man shows capacity for and interest in a particular problem,

which he has outlined and which gives promise of useful results, reduce his teaching time; but it does not follow that the teaching time of all teachers should be reduced. There is danger that the wholesale reduction of teaching hours may in time result in mere indolence.

I agree with Dean McMurray's view that most research can be better done in the law school than outside the law school, with the aid of some foundation or institute. Aside from the loss of contact with students, which seems to me very valuable, there is another limitation upon the outside institute. Very often these institutes are managed by people who are looking for quick results, and they have no money for the long-term investment in research, which may not give any dividends for a whole generation, or for a century. I have in mind that in 1681 Sir Isaac Newton discovered the calculus, yet it was not until two centuries later that the calculus was used most profitably in alternating current theory in electrical engineering. I believe that universities furnish a better place for our budding Sir Isaac Newtons.

Most of the undergraduate students of our law schools can neither be interested in research nor are they capable of it. However, a certain percentage of the better men can be and should be encouraged to undertake research. The establishment of law reviews in conjunction with law schools is significant, for these reviews provide for the brighter men the opportunity for research. Most of this research, it is true, is logical-historical research. However, occasionally a bright student may be encouraged to go outside the field of legal literature. I have in mind one first year man who became so excited over the question whether or not the death of the offeror revoked an offer that he sent out a questionnaire to two hundred or three hundred laymen for the purpose of getting their reactions on that question. Whatever one may think of the value of his data, he at least was trying to measure the law by a standard derived from outside the law.

Graduate students may be encouraged to engage in research. Yet I do not think that all graduate students should be forced to undertake research. Some graduate students come to the law school for a fourth year of additional routine information. If so, they should be required to take a full schedule of courses. There is a place for such men. They should be given a different degree from the men who expect to engage in research. On the other hand, the graduate students, who are interested in research and can do research, should be relieved of part of their ordinary class-room work.

Finally, I wish to say a word as to the methods of research. First, the type of research which I have called sociological will require, not only the time of the teacher, but also the time of a secretary and assistants

and clerical help, to enable him to gather and organize the data. It is just here that the funds of the outside institute or foundation can be of use. Yet the university should not turn a deaf ear to appeals for help.

The more difficult problem of research, however, is the intellectual problem. How can we find standards or yardsticks for measuring the things that we want to measure? To go back again to Professor Whittier's article on Notice Pleading, how can we be sure that the statistics of affirmances and reversals which he presents, and which he thinks tends to show that notice pleading works better than the other kind, are not, or may not be, due to a poorly trained bar, in one instance, or to a timid bench, which is afraid to reverse, in another instance, or to other adventitious factors? The psychologist and the biologist and the other social scientists have been at work a long time on the problem of eliminating such factors and of getting a more or less objective test, and I think that we may profitably study their methods of observation and their statistical methods for our purpose.

In conclusion, may I say that the most important thing to be said about research in American law schools is that we should have more of it.

Mr. Justin Miller, Minnesota: Each one of the three speakers has taken as an example a subject which requires the co-operation of lawyers and those outside the profession for effective research, the subject of criminal law. That makes so appropriate the following resolution, which I propose to offer, that I am going to take the liberty of giving notice of it at this time:

"Whereas, the Section of Criminal Law of the American Bar Association at its meeting in Detroit in September, 1925, adopted by unanimous vote a resolution calling upon the association to authorize a nation-wide survey of the subject of crime, criminal law, and criminal procedure; and

"Whereas, the Social Science Research Council has outlined upon its budget as one of its major interests a survey of the same subject; and

"Whereas, there seems to be a reasonable probability that, if a joint request were made by the Association of American Law Schools, the Social Science Research Council, and the American Bar Association upon the directors of the Laura Spelman Rockefeller Memorial, calling for funds to carry on such a survey, such request would be granted and necessary funds would be provided:

"Therefore be it resolved:

"(1) That the Association of American Law Schools approves the making of a nation-wide survey of the subject of crime, criminal law, and criminal procedure; and

"(2) That a committee of the American Law School Association be appointed by the President, with power to co-operate with similar committees of the Social Science Re-

search Council and the American Bar Association, for the purpose of preparing a program for such a survey, and for making the necessary request for funds from the Laura Spelman Rockefeller Memorial or other source; and

"(3) That such committee be authorized to co-operate with similar committees from the other associations herein named in the direction and supervision of the said survey."

I have a good deal of information which I wish to use in support of this resolution. I wish to make an argument upon it at a later session of this Association. I wanted to give notice of it at this time, so that the members might be informed of the subject, and so that there might be a full discussion of it at a later meeting.

Chairman Corbin: The resolution Mr. Miller has read to you should be taken under consideration. I will assume the responsibility, as one of my last acts as your Chairman, to turn that over to the tender mercies of President McMurray. There is no question that a great many of us have been stimulated on this subject of research. Our ideas are no doubt budding, and many of them would be interesting. Again, however, I now take the responsibility, as my very last act before calling President McMurray back to the chair, of suggesting that our discussion on it now cease for the present, at least, and in order that the rest of the program for this afternoon may be heard. President McMurray, if you will take the chair, I shall be much pleased.

President McMurray: There is no necessity on my part of introducing the speaker who will now address us on behalf of the bar. Wherever half a dozen of us are congregated to discuss legal propositions, somehow or other inevitably there are the names of about three judges that come frequently to our lips. To-day we have the great honor and privilege of hearing from one of these three, the Honorable Learned Hand, who will address us upon the subject of "Have the Bench and Bar Anything to Contribute to the Teaching of Law?" [Here followed the address of Hon. Learned Hand. See page 621 of this magazine.]

Before calling on Professor Page, who I hope will undertake to rehabilitate the bench, I think I can express on behalf of the Association our deep appreciation of this masterly address. Professor Wm. H. Page, of Wisconsin, will now proceed, according to his own lights, to rehabilitate or further demolish this idol of the bench.

Discussion of Judge Hand's Address

Wm. H. Page: It is a great honor to have Judge Hand address us. It is a great privilege to listen to his address, an honor and a privilege that bear hard on the unfortunate who has to open the discussion, for after you have listened to the result of the experience, wisdom, and ripe culture of Judge Hand

couched in his own delightful style, anything that I may have to say will, of necessity, be an anti-climax. And with all due deference to the powers that selected me to open the discussion, it was a poor selection. There are two rules in picking some one to open a discussion: Rule one, to pick a man to open a discussion who will differ absolutely with the speaker; and rule two, to pick a man who will differ from the speaker in as insulting a manner as possible. Unfortunately, I agree so much with Judge Hand in what he has said that I shall scarcely be able to make even a pretense of any radical or sharp difference. He values the law teacher very highly, but we have an even better opinion of ourselves; and if he tells us what the bench and bar do in the strain and press of work, I suspect that I agree with him. I am making no exception in my own case. I look back with remorse and regret on some of the work I turned out myself when I was in the practice, and when it seemed far more important to get the day's work done somehow than to make any attempt whatever at getting it done anywhere near perfection. Here and there we possibly find one like our honored speaker, who can show how in the stress of life we can do a great deal of work, and yet make a near approximation to perfection; but with most of us, who are caught in the typhoon of a busy practice, the wonder, as Dr. Johnson said once about a woman making a speech or a dog walking on its hind legs, is not that it is not well done, but that it is done at all.

Balaam, the unknown author of the Book of Numbers, or that part of it that chronicles his doings, and Mr. John O. Gray have, between them, a great deal for which to be responsible. I think, at almost every conference of the American Law Institute on the restatement of law, we have heard the story of Balaam's law as given in Numbers, and as narrated by Mr. Gray. And yet, if we examine the original source, I am not sure but we can put the greater part of the responsibility on Mr. Gray. If we go back and read Numbers, we find that the story which is told there differs from that told by Mr. Gray in one point, but that the vital point; and on any hypothesis of the case I think that Balaam and the ass are free from blame. You are all piously educated. Think back to that story as it is told. What was the inspiration as it is told in Numbers? The ass saw the angel of the Lord standing in the path with a drawn sword, ready to slay if Balaam came on. The divine truth, hidden from the eyes of men, was perfectly obvious to the ass. This was the inspiration. On seeing the angel, the ass balked promptly; a most natural act, but not one requiring either inspiration or any miraculous interposition. Finally the ass spoke—a miracle, no doubt; but a divine inspiration? What did she say? We find in the statement of the case by the ass a complete omission of all the material facts

—a beginning law student could not make a cleaner record. There was no reference to the angel in the way; no mention of death imminent from an angry God, only a purely subjective statement about how exceedingly she objected to being smitten three times, followed by a partly objective reference to her blameless life and her one hundred per cent. good record up to that time. So the inspiration of Balaam's ass was in her intuitive knowledge of the truth, and not the least in the way that she disclosed it.

What is law? (I am not wandering in my mind in the least, I assure you.) What is law? First, I am not in the least discussing the theory back of it. Let us concede that the law, back of which the state stands ready to use force, is only a small part of the legal order. Let us concede that our usages, ethics, religion, etiquette, convenience, have built an enormous web of custom, out of which very few of us try to break. Even the most confirmed criminal, on the one hand, or the most advanced thinking candidate for martyrdom, on the other, stays within the web far more often than he evades it. The legal order would collapse before sundown, if people obeyed only the rules back of which the power of the state stood, ready to use force. So I am not discussing the nature of law from this standpoint. Nor am I concerned now with the ultimate causes—our past history, the nature of man, inertia, the nature of the American, economic changes, the pressure of different interests, whatever it may be that will eventually shape our law. I am thinking of the content of the law at the precise moment—the thing that determines the content of the law.

A thousand years ago, when the Northern tribes broke into the Roman Empire, people did not say that the warriors of the different tribes had a law, or that they were governed by a law. They said that they lived a law. Now, our life has gotten a great deal more complicated than the life of those gentlemen. We have so many different ways of getting hold of property, without committing robbery, than they had; and so, although our law is far simpler than life itself, still it is infinitely too technical and complicated for the mass of the people to know, or to live.

But is the law anything on earth but the consensus of opinion of those who actually work in the law and apply it; those who are technically learned in it, the judges, the lawyers, and, as some of our friends are kind enough to tell us, the law teachers? Is it not this general consensus of professional opinion, and not the *Zeitgeist*, or the *Logos*, or *Oversoul*, that keeps us straight, and holds us right down the path? Or, to come back to the simile, which cannot be contempt of court, since Judge Hand has used it, is it not the sight of this general consensus of opinion, this angel in the path with the drawn sword, that is the direct inspiration of the court? After

the truth is once seen by intuition, by revelation, whatever it may be, then comes the attempt to rationalize. That is a very human way of doing it. We make our judgments largely by our intuitions and feelings. Then we proceed to work back from our intuitions to our judgments, and then build a chain of legal reasoning to connect the two ends. Von Ihering once said that this was the best way to decide a case. Whichever way it is, is not this consensus of opinion the law at the time? It may be the leaders can make that consensus something else, if given time enough; but at the time is there anything else can stand against it, except possibly the legislator? The law teacher has to stand by, vociferously, it is true, while doctrines that are an anathema to him sweep the land. Can the judge lay down principles, when he knows his peers are going to think he is wrong?

Have the bench and bar anything to offer to us, the law teachers? My answer is: They have always given us everything, and they always will give us everything. It is to them that we have to look for our material. We have as yet no means whatever for making the great survey of life that Ehrlich asked for in his great work on the *Living Law*. It is the cases to which we have to look for the combinations of fact that test the content and correctness of legal principles. It is for the bench and the bar to recognize those cases as new and novel when they first come up, if new and novel they are, or the new character of it is lost before it is found. It is for the courts to work out these cases of first impression, and it may well be that the way in which they are worked out first will give them a form that is strong enough to shape the law indefinitely, no matter how the law teacher may try to change it, and the direction along which the courts may push the doctrine at the outset may be the direction from which, with all their momentum back of it, no law teacher can turn it.

Thus far I have spoken of the help the bench and bar can give us in our constructive side of work. In the teaching side, too, I think you will find the same help in the same way, and that is this: Cannot the bench and bar work out themselves the cases in a better way? Can they work out a clear concept of what facts are material? Can they tell them to us? Can they state the facts they look on as vital? Can they give us the principles back of which they feel the rule for the decision lies? Can they work out clearly the connection between the result they are reaching and the principle? If so, we get our material in a far higher plane than we ordinarily get it, and if we put in the same amount of work and ability that we do now the result ought to be on a far higher plane; and when it comes to teaching, as well as in constructive work, in the same way we ought to work out on a far higher plane. We need not feel that, if the opinions are handed down

in a clearer, more lucid fashion, that it will make life too easy for the law student. Ideas that are perfectly clear to the judge and lawyer are likely to be clouded in midnight darkness for the beginner; and even if they are not, and even if he begins on a higher plane and with a firmer grasp, remember how much of our constructive work begins with discussion in the class-room. If the discussion begins on a high plane, can we not carry it to a still higher one? That, it seems to me, is the great aid the bench and bar can render. Not bigger and better briefs—I say, just better ones.

But then I am taking entirely too much time, and it can all probably be summed up in this way: Let the bar write opinions as they would if they were going to submit them to Judge Hand, and let the bench write the opinions as Judge Hand would write them.

President McMurray: The hour is getting somewhat late, but we have on the program still unconsidered Article Sixth, and if it is the desire of the Association that we take up this section at this time we will do so. It is rather late. What is your wish? [Adjourned at 5:30.]

Third Session

The Third Session was called to order at 2 o'clock, Thursday afternoon, December 31, 1925. It opened with a paper by Professor Edson R. Sunderland, of the University of Michigan Law School, entitled "The Evolution of Remedial Rights," which is given in full on page 639 of this magazine. Below is given the report of the further proceedings of the afternoon session.

President McMurray: It has been requested that an announcement be permitted on behalf of the American Law Institute, by Mr. Wm. Draper Lewis.

Mr. Lewis: Mr. President, Members of the Association: I just wanted to take a moment of your time to make an announcement which I was practically requested to make by the Council of the American Law Institute. Last winter, as you perhaps all know, we issued the first three tentative drafts of parts of three subjects on which we are engaged in the restatement of the law. Those were discussed at the meeting of the American Law Institute on the 1st and 2d of last month. Since then we have received a very large number of suggestions for criticism and for improvement of these tentative drafts from members of the bar. We have not received anything like the number of suggestions for improvement that we had hoped that we would get from members of the teaching profession, and we have devised a plan to overcome this, and to get those suggestions, if possible.

Shortly you will all receive, at least all of

you who are Deans, and the rest of you from your Deans, a letter from me as Director, accompanied with the statement as to how the law schools can help in the improvement of these tentative drafts, before we get at the next tentative drafts or the final official draft.

We have come to believe, and I think you will agree with me, that the criticisms which we will receive and suggestions from members of the teaching profession will be greatly improved, if I might put it that way, by having the tentative drafts used in the classroom for a year before those tentative suggestions are made, and the plan that we have worked out is this:

It is impossible financially, of course, for the Institute to furnish free of cost the tentative drafts to all of the students in all of the law schools; but we have a plan by which the professor concerned in any subject on which we are now engaged on restatement can obtain in lots of twenty-five, at printer's manufacturing costs, these tentative drafts, and those that are not resold—they can be given to the students at whatever slight advance is sufficient to insure no loss—can be returned to the Institute.

In other words, we don't want to put the professors in the position of spending money, but we are very anxious that they try it out with their students and give us the result of that try-out. We think there is a good deal to be gained by that, and also, frankly, we think that the students who become more or less accustomed to these drafts in their formative period will be more interested and more likely to use them when they become members of the bar and judges, and the drafts are finally turned into official publications of the Institute.

As a matter of interest, I will say that within the next two months there will be sent to each person here and to each teacher of law in the Association of American Law Schools two copies of the new sets of tentative drafts of additional parts, and that it involves these new tentative drafts that are going to be discussed by the Institute at its general meeting on the 29th and 30th of April and the 1st of May of this year. That is the time when the meeting will take place. They are in bulk almost three times as much as the first tentative drafts, the three last year, so that by next spring, or by fall, at any rate, you will find, those of you who are teaching Contracts and Agency and Conflict of Laws and Torts, you will find that quite a little of the ground covered in your classes will be also covered in the tentative drafts.

The thing that we wish to impress upon you is that these are tentative drafts. They are not final, and we want to get all the help we can. These tentative drafts are, of course, the product sometimes of two or three, sometimes of as many as eight, of what are known as preliminary drafts. The preliminary drafts are those discussed by the

reporter and his group of advisors in various conferences, and it is not until after the group gets the preliminary draft into shape that they are reasonably satisfied with that it goes to the Council and the Institute at all, and becomes what we know as a tentative draft.

The Council have also taken an action which will enable the reporter, as, for instance, Mr. Beale, in Conflict of Laws, if he so desires, and with the approval of the Directors, to send the preliminary draft, which is a confidential draft, not to be used necessarily for the students, although that also is permitted, with some limitations and care that you impress upon the student the fact that the draft is confidential, and not to be quoted in any public address as a statement of the Institute, that these preliminary drafts can be received by those especially interested in the subject. They will be distributed to—at least, when we get along to more or less the end of the preliminary drafts, they will be distributed to—all of the teachers of that subject, provided the reporter so desires, and I think in most cases that he will so desire, and it is, of course, very important that, before the tentative preliminary draft is submitted to the Council, we get from the teachers of law in that particular subject as many suggestions as possible.

It is an unfortunate circumstance that the Institute cannot have at its conferences every teacher of law of the subject, as, for instance, in Agency, that we cannot have all the teachers in Agency present at all the conferences. There is a very obvious reason for that. We have found practically that a conference around the table becomes unwieldy, if there are more than eight or ten persons present. Therefore, it is impossible to have all the teachers of Agency or other subjects present at the respective conferences. But that does not prevent the teacher from doing a very useful piece of work, in examining those preliminary drafts that have proceeded far enough to be more than merely rough drafts, and I hope that those of you who receive those preliminary drafts will take the time, and it does take time, two or three days of solid work, at least, to be able to make, what you would make under those conditions, intelligent suggestions for improvement.

President McMurray: We are indebted to Mr. Lewis for this information. Any other announcements, before we proceed with the program, which still is quite extensive?

Secretary Algier: I only want to say I hope no one will leave without having filled out one of the registration cards. I think, if everybody will fill out his card, that we will have kept up our record of each meeting being larger than the one before it.

President McMurray: The report of the Executive Committee was under consideration at our last business adjournment. Since that adjournment the Committee has met,

and has considered the matter that was referred to it, and also the other matter that had not been considered; that is, Section 2 and Section 6 of Article Sixth.

Secretary Aigler: With reference to Section 2 of Article Sixth, the suggestion of the Executive Committee, arrived at since the first meeting, is as follows:

"It shall require of all candidates for its degree, at the time of their admission to the school, the completion of two years of such college work as would be accepted toward a bachelor's degree in the college of Liberal Arts of the State University or of the principal colleges and universities in the state where the law school is located."

"It shall require of all candidates for its degree, at the time of their admission to the school, the completion of two years of," and then insert "such college work as would be accepted towards a bachelor's degree," and then strike out the words in the printed part, beginning with the word "college" down through the words "junior year," and leave the rest as it is.

That seemed to us to avoid the difficulty that was pointed out in the requirement in some Liberal Arts colleges that certain specific courses must have been completed before a man is given junior standing. But it makes perfectly clear that this Association requires from candidates for the degree entering member schools the completion of two years of college work, judged by the standard set for it in this proposal. I move the adoption of this amendment. [Seconded.]

President McMurray: What is your pleasure? Any discussion?

Mr. George J. Thompson, Pittsburgh: I understood, in the discussion on the first day of the meeting, that "college of Liberal Arts" was to be amended in such a way as to include an engineering school or other course, such as business administration, which was equivalent to a four-year college course.

President McMurray: I think there was discussion from the floor, and the whole matter was re-referred to the Executive Committee without instructions.

Mr. Thompson: If I may suggest, it seems to me that is a rather narrow limitation, in view of the fact that practically all the schools requiring a collegiate degree will accept a degree from an engineering school, or two years' work, as I understand it, in an engineering school, or in a school of business administration or other course of a similar collegiate nature, although not part of the college of Liberal Arts work. I suggest that there be an amendment which would meet that situation.

Secretary Aigler: That was very fully considered by the Committee, and we are quite prepared to present the clear-cut issue to those who are here as to whether or not the test of college work should be as stated in this proposal, or whether it should be left in the broader way as proposed by Professor

Thompson. This, no doubt, is true: That most of the college work in the first two years in colleges of engineering, business administration, and so on, will count in the Arts college toward the bachelor's degree there, though perhaps not all of it. That is the problem; you vote one way or the other on that issue, as clearly presented here.

Mr. William G. Hale, Oregon: This Association has, I believe, repeatedly declined to prescribe heretofore the content of the pre-legal course. It has wisely so refused, because we would never be able to agree upon the content of the best pre-legal curriculum. Indeed, we probably do not have the wisdom that would justify us in being dogmatic or arbitrary in dealing with the student who is looking forward to the legal profession.

I submit, Mr. President, that the rule now offered is accomplishing something of that purpose, and yet not reserving to this Association the right to dictate that content, but leaving it to the various colleges of Liberal Arts throughout the United States.

For some fifteen years in law school work it has been my—I was going to say privilege—misfortune, may I say, to be obliged to deal with Liberal Arts colleges in conjunction with the administration of our law schools. Each Liberal Arts faculty has its own prescriptions, often detailed, and no two of these Liberal Arts faculties agree, but each one of them is perfectly certain that it has said practically the last word as to what should constitute the content of a college education.

The rule here proposed ties each of the law schools to the chariot wheels of the Liberal Arts faculty in the particular institution in which it is operating. It is denying us the freedom, indeed, that we have been seeking. It is placing a barrier to the freedom that I am sure the Deans of most of the law schools have been craving, not in the interests of lowering the standards of their work, but, if you please, at least in their opinion, looking to the improvement of the standards of their work. This rule applies particularly to the schools which are operating on a two-year basis. We find it difficult oftentimes to get into that two years the work that we think our students should have. If we bind them in the choice of the courses to the subjects that the particular Liberal Arts college has selected and demanded, it oftentimes means the exclusion of courses which, in our judgment, represent a better selection than that made by the Liberal Arts colleges. Perhaps it is not better, but at least in our opinion it is so. In any event, then, it leaves us free to experiment in a measure, and it frees us from a certain measure of dogmatic and arbitrary control of the students who are looking forward to our professional work. I can't help but believe that the Executive Committee, notwithstanding the obvious purpose to improve our standards, has formulated the rule in its origin and as now amended

without sufficient reference to the problem that it is creating for all of us.

It is perfectly true that much of the work offered by an engineering college would satisfy the requirements looking to the B. A. degree, but it is not enough to say that much of it would be so accepted. The ten hours, perhaps, which would not be accepted, would constitute the particular barrier in passing upon the work of the student seeking admission to our colleges, which would make all the difference between the privilege of going on with his work and the obligation to spend the longer period following out the particular prescriptions of the Liberal Arts college of that institution. This rule will have serious effect upon the administration of our schools, will operate with unfairness, and with no uniformity, and will not secure a better product in the law schools that are members of this Association.

Mr. A. J. Harno, Illinois: I arose last Tuesday to voice my opposition to this proposed article. As it is amended it does not help the situation at all. I wonder if the Association realizes some of the things that this proposed article entails to various schools.

First of all, I want to call to the attention of those of us who have large colleges of commerce and business administration that we already have in these colleges many students who have been there for two years, and who expect to enter the college of law next year. What are we going to do with those students, if they fail to qualify next year on the basis of evaluating their work in the Liberal Arts? It would mean that we have dealt unfairly with these students.

Secondly, different colleges of Liberal Arts have different standards. A college of Liberal Arts in Illinois may have its rule such that a student who transfers or has his work evaluated from another college cannot qualify for junior standing in Liberal Arts in Illinois. It is quite possible that he can transfer to Iowa or Wisconsin, and, that college of Liberal Arts having a different standard, he could qualify there.

Dean Hale has told you that he thought that you were tying us to the chariot wheels of the Liberal Arts schools. I will amend that by saying I think you are attempting to tie us to the apron strings of the Liberal Arts schools. You are restricting our choice of work very, very materially.

A short time ago a student came in to me and told me something like this: "I have a relative who is a patent lawyer in Chicago. I want to prepare myself in the best way possible for the study of law." And I told him, as I hope all of you would tell him, "Go into the college of engineering," and that is where he is to-day. We don't have very many cases of that nature, but that case arises occasionally. We advise our students quite frequently to go into the college of commerce and business administration. Some of them say that that may not be so cultural as

Liberal Arts. They get there many of the cultural subjects, and they get such subjects as accountancy and economics, and many of us are advising our students to take accountancy and economics, and if it be said they are not as cultural as some of the liberal arts, I think we would all have to agree that they are as cultural as chemistry or mathematics. I don't see any advantage to be gained at all from this amendment. I see a great deal of embarrassment and harm to the rest of us.

Mr. H. B. Schermerhorn, Vanderbilt: The last speaker has said that, if we raise too quickly and too markedly these entrance requirements, it will have the effect of diverting the students who otherwise would come into the member schools to that very type of law school which this Association deprecates, and which it is the object of the Association, the prime object, as it seems to me, to do away with. We send those men into the other non-Association law schools, and from thence to the bar examinations, and thence to practice in the community.

Now, it seems to be very undesirable that that effect should be brought about by too great strictness with respect to the pre-legal requirements.

Mr. Frederick Green, Illinois: Our school, like many other law schools, requires two years of college work for admission, but will accept two years of any college in the University. To make this change, we should have to say to our trustees that it is a reasonable one. I think we might induce them to raise the two years of college work to three. I think we might induce them to raise the two years of college work to four, and require a degree; but I don't see how we can induce them to accept two years of work in the college of Liberal Arts, and decline to accept four years from the college of engineering or the college of commerce. I think they will ask us—why is it that a man, after two years in the college of Liberal Arts, is fitted to begin the study of law, and after four years in the college of engineering or commerce is deemed unfitted to begin the study of law, unless it so happens that two years of his work would have been accepted for the A. B. degree?

I, myself, don't know how to answer that question, and I should appreciate it if some member of the Executive Committee, who is familiar with this proposition, would suggest to us an answer that we might make.

Mr. James P. Hall: May I ask the Secretary to read the constitution as it at present stands?

Secretary Aigler: The part of the section which is involved at present reads: "After September 1, 1925, it shall require of all candidates for its degree, at the time of their admission to the school, either the completion of two years of college work, or such work as would be accepted for admission to the third or junior year in the college of

Liberal Arts of the State University or of the principal colleges and universities in the state where the law school is located."

Mr. Everett Fraser: I think an explanation should be made of the reasons that influenced the Executive Committee in recommending this amendment. There are two. In the first place, this goes to the quality of the institution from which the work is being offered. You know that there are being organized junior colleges in various states. You are also aware of the fact that some law schools are seeking to comply with the requirements of the American Bar Association by themselves organizing junior colleges.

Now, are we going to accept, first of all, two years of college work from any college that calls itself a college, without any objective standard by which to judge it? That is the first matter in the mind of the Committee.

The second is the quality of the work, no matter where it is taken. Are we going to accept typewriting, mechanics, embalming, things of that kind, which may be taken in various schools? Are these to be accepted as meeting the requirement of the Association of American Law Schools?

Mr. E. M. Rucker, South Carolina: Have we got a test, as it now stands under the present rule, that it must be accepted by the State University?

Mr. Fraser: I believe this is more liberal than that is.

Mr. Hall: It is only in the alternative now.

Mr. Fraser: This is probably definitive, and that is in the alternative.

Another point is this: All that is required is that the State University or principal college in the state accept this work for the degree, and, I ask you, is that not a liberal proposition?

Mr. Hall: Might I move an amendment, changing the last part of it to read, "two years of such college work as would be accepted toward a bachelor's degree in the State University or in the principal colleges and universities in the state"?

One may say there, how about a law degree? That is a bachelor's degree, the LL. B. degree. If it would be thought there'd be any doubt about that, then you could say a non-law degree; that would exclude law as admission requirement. I don't suppose there could then be any doubt about our meaning.

President McMurray: Your amendment suggested is merely to strike out "in the college of Liberal Arts."

Mr. Hall: Strike out "in the college of Liberal Arts," and insert the word "in," in place of the word "of," before "the State University," and before "the principal colleges."

Secretary Aigler: Did it occur to you that, under that, a young man who had had two years that would count toward the bachelor's

degree in physical education would be eligible?

Mr. Hall: If the college would permit that, it would include it. I don't know that there are any such colleges.

Secretary Aigler: There are.

President McMurray: Did I hear any second to Dean Hall's motion? [Seconded.]

The question is upon the amendment of Dean Hall, which is merely to strike out in effect the words "in the college of Liberal Arts," and substitute the word "in" for "of" in two lines, for grammatical purposes. If amended as suggested by Dean Hall, it would read like this: "It shall require of all candidates for its degree, at the time of their admission to the school, the completion of two years of such college work as would be accepted toward a bachelor's degree in the State University or in the principal colleges and universities in the state where the law school is located." [On a vote being taken, the amendment was carried.]

President McMurray: The amendment is carried. It now reverts to the section as reported, as amended, and on that we must take the roll call.

Mr. Joseph H. Beale: In order to save time, I suggest we go through with all these Articles first, and pass them viva voce, and take a roll call at the end of the time on all of them.

President McMurray: There is only one more. I think we will save time upon that. If there is no objection, the chair will so proceed. Section 6 of Article VI. Mr. Aigler, are you ready to present Section 6 of Article VI?

Secretary Aigler: The Committee, realizing that there would perhaps be almost endless discussion on the library proposal, if it were left as it is, has concluded to present to the meeting that proposal somewhat modified. It would read as follows:

"Commencing September 1, 1927, it shall own a library of not less than seventy-five hundred volumes." Then strike out down to that paragraph that begins, "The books," and substitute for the two words "the books" the one word "which." Then let me go back and start over again, so as to get the connection. "Commencing in September, 1927, it shall own a law library of not less than seventy-five hundred volumes, which shall be so housed and administered as to be readily available for use by students and faculty." And then the next paragraph: "For additions to the library in the way of continuations and otherwise there shall be spent"—instead of the word "available," "there shall be spent—over any period of five years at least seventy-five hundred dollars, of which at least one thousand dollars shall be expended each year." The last two lines automatically drop out, because that is provided for in the beginning.

I move the adoption of that. [Seconded.]

Mr. Rucker: I don't like to oppose the resolution, but I am by no means clear that it is a wise thing to do, gentlemen. Theoretically, the Association of American Law Schools exists for the purpose of controlling the output in law schools, by seeing that that output goes out of law schools of a certain standing. We don't control the situation as it stands to-day. On the contrary, we control only about one-fifth of the situation. I know some law schools down in my section that I'd like to get in, not so much—I don't want to pose as too altruistic—not so much because of any particular affection for them, as that I don't care to pitch the competition of teaching law students on too low a basis.

I am therefore opposed in general to raising that standard to the point where our conduct will be a deterrent to them. I think we ought to encourage them. When you start out saying they shall spend in five years \$7,500, to some of you that is a mere bagatelle, and I would find it difficult to bring to your mind the seriousness of the situation.

I think this convention made a mistake when it passed a rule day before yesterday requiring law schools to wait two years—to comply with our rules for two years—before they could come in. I think, if you put in this requirement that they shall spend the sum of \$7,500 on law books, \$1,000 of it at least each year, it is not going to influence Harvard or Yale and many others; and I may add in that connection that Harvard and Yale did not join this Association for any benefit they expected to get out of it, but they have joined it in order to help up the standard, and the question with us is: Are we going to do something that will make this such a close corporation that we will always be the masters of only a small minority of the law students of the country?

Secretary Aigler: I want to say for myself that I dislike to call a roll that involves voting on these two propositions together. Personally, I hope that the suggested amendment regarding the two years of college work will be defeated as it stands, because I, for one, should much prefer to have the old proposition than the new one, because I think it is a step backward. To my mind, this Association should move forward, instead of backward. When you stop to think that that would be a direct invitation to the admittance to member schools of young men, or perhaps young women, who have had two years of work that would count toward a bachelor's degree in physical education—and I know something about those courses, too, and some of you know that I know about it—I shudder. At the same time, I very much hope that this amendment regarding the library will be adopted.

If it is the desire of the convention that I call for the vote on the two together, of course I shall do it. I hope that I shan't need to do that.

President McMurray: If there is a demand, I think we must proceed according to the rules and take separate votes. There seems to be a demand that these two matters be separated, and, without putting the matter to the vote of the assembly, I will take the liberty of following the constitution, notwithstanding the fact that we are law teachers.

Mr. Rollin M. Perkins, Iowa: It seems to me that these articles have been changed so much that perhaps they should not be voted on without a careful consultation by the members of the different faculties, and that probably should not be attempted at this late hour. I move that that be postponed for one year, that that be made a special order of business at our next meeting—that is, the first part of this one, which we discussed, the one before the one just mentioned.

President McMurray: That is, in effect, a motion to refer, I take it.

Mr. H. C. Horack, Iowa: I move that the motion to adopt Section 2 of Article Sixth be laid on the table. [Seconded.]

President McMurray: The motion is made that this be laid upon the table. The one we are voting on is Section 2, as amended by Dean Hall. [The motion was carried.]

President McMurray: The roll call, then, is on the library proposal. We vote upon Section 6 of Article Sixth.

[Upon the roll being called by the Secretary, the vote stood: Ayes 48; noes 9. Carried.]

Secretary Aigler: One further item, as far as the Executive Committee's report is concerned. A former member of the Association has applied for readmission, the Law School of Georgetown University. The Committee are satisfied that Georgetown is eligible for election and recommends the election. I move their election. [Seconded.]

President McMurray: Those in favor of the motion that Georgetown be admitted a member of this Association please say "Aye." Contrary "No." [Unanimously carried.]

President McMurray: The next order of business is the reports of committees. Committee on Curriculum. As we have a considerable amount of business before us, it would be desirable if members presenting formal reports merely state the salient features, if that is agreeable.

Mr. Herman Oliphant: The Committee on Curriculum have before it two matters—the one a matter referred to it two or three years ago, its recommendations as to subjects which should precede law study. Upon that subject a short while ago the Committee submitted an initial report, which merely purported to find out what the present practice was, and which did not hazard any judgment as to what the practice should be, so far as the content of pre-legal training is concerned. The other matter before the Committee is the matter referred to the Committee the year

before last, and that relates to the amount of work—the relative amount of work—in procedural law, as opposed to substantive law, which is being given by member schools.

The text of the resolution adopted by the Association in this connection merely calls for information, as the Committee interprets it, and that information the Committee has tried to get together, and it is printed in the program and will not be read.

I move the adoption of this report, with liberty on the part of the Committee to make such correction, prior to its appearing in the annual proceedings, as may be called to the Committee's attention by member schools. [Seconded.]

President McMurray: I take it the report carries no recommendation, Mr. Oliphant?

Mr. Oliphant: No action is required.

President McMurray: The motion is in effect to receive the report, which I suppose may be considered as received and filed.

The next committee to report is the Committee on Co-operation with Bench and Bar. This will be presented by Professor Beale.

Mr. Beale: I don't think it is necessary to read the report. You have all read it. It represents a feeling which has been very general, has grown since that time, not so long ago, when Dean Richards in his presidential address called our attention to the need of devoting ourselves to legal research more fully, and of the co-operation desirable with the bar. Our report concludes with six recommendations for putting into effect a plan (assuming that we are able to raise the money for it) of summer meetings with the bench and bar for the discussion of current legal problems. These recommendations are as follows:

"1. That a standing committee of seven be appointed to carry through a yearly program of conferences on the administration of law.

"2. That this committee select at least three schools as the scene of the conferences for each year and choose the subjects for the conferences and select the reporter for each conference.

"3. That the committee, in consultation with the reporter on each subject, employ one or two young lawyers or students of law to prepare the facts for each conference.

"4. That judges, lawyers, and teachers who have particular knowledge of or are specially interested in a subject to be taken up in a conference, be invited to be present and take part in the conference as the guests of the committee; with a general invitation to all lawyers to attend.

"5. That each conference be held under the presidency of the reporter and that a report of the result of it be prepared by him and presented at the next meeting of the Association.

"6. That the committee be empowered to raise funds for (1) the payment of the investigators; (2) The expenses of the conference, including an honorarium to the specially invited guests and payment of all their expenses; (3) a salary for the reporter. The method of raising this money, either by application to a Foundation or by an appeal to lawyers specially interested in the matter, may be left to the committee."

I move the adoption of these six recommendations, and I shall have to follow that up, from

fuller knowledge of how money is to be obtained, by another formal motion, if the Association see fit to adopt these recommendations. [Seconded. The motion was carried.]

Mr. Beale: I find that the funds and organizations having endowments for this sort of thing will consider no applications, except they come from a fountain head. The Committee cannot apply for these funds, but it must be done by the Association. I therefore move the following to be added to these resolutions: "Resolved that the incoming Executive Committee be authorized to apply at their discretion in the name of this Association to existing funds or other organizations engaged in fostering research for the endowment of the work recommended by the Committee." [Seconded.]

President McMurray: I wonder if we can have any enlightenment upon this subject from Mr. Lewis. He seems to be the connecting link.

Mr. Wm. Draper Lewis, Pennsylvania: I am glad that you give me the opportunity, without hopping upon my feet, with regard to this. This is a most excellent thing. I have been asked by Mr. Beale, since I arrived here, whether it would interfere at all with the American Law Institute. If anybody has that lurking suspicion in their minds, I welcome them to get rid of it. I confess I would have been interested, if in the course of the discussion it had been brought out from Mr. Beale some of these subjects of conference, the definite things. At the same time, where we are now, as I see it, is feeling our way. The Committee has brought in a most wise suggestion, and exactly how that suggestion is going to be worked out will have to be done as in the first stages of the Institute, which, if you will remember, was the appointment of a committee of this Association to consult with members of the bar and judges, and other interests, to devise a plan for the permanent improvement of the law.

The Institute took a year, and we spent nearly \$25,000 investigating as to how to get at it, and we came out with a definite result. I am quite sure that the Committee, of course, not following that exact procedure, would be able to develop a system by which we will get this co-operation, and I think the Institute will be benefited, not hurt, by the operation.

President McMurray: The question is upon the adoption of Mr. Beale's motion that this matter be referred to the Executive Committee. [The motion was carried.]

President McMurray: The next committee to report is the Committee on International Law. I think it merely reports progress.

Mr. Manley O. Hudson, Harvard: I think there is nothing to add to the report. Mr. Wickersham, who is a member of this Committee, will sail for Europe day after tomorrow, and I think he anticipates the continuance of what help the Committee has

been able to give to him, and the Committee therefore makes a recommendation to that effect. I move the adoption of this report and the continuance of the Committee. [Seconded. The motion was carried.]

President McMurray: The report of the Committee on Jurisprudence and Legal Philosophy will be presented by Mr. Wigmore.

Mr. John H. Wigmore, Northwestern: Mr. President, if you will permit me, I can speak for both the committees of which I have the honor of being chairman, and ask you simply as members representing the schools here to read these reports, and I will spare any further comment, except to remind you all that the publishers who gallantly went into this enterprise ten or twelve years ago have been seriously disappointed, and rightfully disappointed, at the result. They not only lost the money they expected to lose, but they have lost more, and I think they will never again take any proposal from this Association to sponsor the expense of a book. Part of that, I think, is due to the fact that they have not found themselves able sufficiently to circularize the bar on this subject, but I do think, from what they tell me, that the greater part of the sales that have been made have been made to members of the bar, and not to the law schools. It is not expected that individual members of faculties will buy these series, but I do think it is fair to expect that they should make an effort to secure the placing in their libraries of a complete set of the series that is sponsored by this Association, and for the honor of the Association, and in mercy to the publishers, I trust that you will take back that message to your librarians.

President McMurray: It might be considered that the Executive Committee consider the further amendment of the Constitution, so as to compel schools to buy these books before becoming members of the Association.

The next in the order of business is the report of the Treasurer.

[The report is here omitted.]

President McMurray: The next matter on the program is unfinished business.

Mr. Justin Miller, Minnesota: I would like at this time to offer and move the adoption of the resolution of which I gave notice on Tuesday. I wish to explain the reason why I offer the resolution, the history back of it, especially as it fits in so closely with some of the comments of the President in his Address, and also because it is something which resembles the recommendation made by Mr. Beale's committee.

We all know that the subject of the administration of criminal law is one of very pressing and immediate interest. We know that a number of efforts are being made throughout the country to attack the problem from various points of view—the National Crime Commission, the American Institute of Criminal Law and Criminology, each of them undertaking a specific phase of the

problem. Some of the states and some of the larger cities are also carrying on individual programs, looking to the improvement of the administration of criminal justice. The Section of Criminal Law of the American Bar Association has had the problem in hand for a number of years, and at its last meeting in Detroit unanimously adopted a resolution calling upon the American Bar Association to sponsor a comprehensive survey of the whole subject, and to find funds for that purpose; since that time, by chance I have discovered that there is money available for that purpose, and I will tell you very frankly just what I know about it, so that you may act in a fully informed manner.

I happened to find out, in conversation with Dean Ford, of the University of Minnesota, who was for a time an advisor of the Laura Spelman Rockefeller Memorial, that that Memorial had been solicited on at least one occasion, and perhaps others, for money to carry on a comprehensive survey of the subject of crime, and that the Social Science Research Council had made a definite request for money for that purpose, having the subject of the survey of the crime situation as one of its major propositions. Dean Ford advised me, and since I have come to Chicago to this meeting I have had a letter from Mr. Merriam, who is the Chairman of the Social Science Research Council, that the officers of the Memorial have been anxious that the American Law School Association should be identified in any survey of this kind which might be undertaken, in order that the survey should be truly representative and should be a real piece of ground-work in the field.

Now, having under way this movement on the part of the American Bar Association, and it being suggested that the American Law School Association had been considered, the Social Science Research Council also having the problem in hand in the form of a specific request for money for that purpose, Dean Ford suggested that the right way to approach the matter would be for the three associations to make a joint request, and to offer to supervise jointly the formation of a program and the supervision of work which might be undertaken in connection with it, and in line with that suggestion I have drafted and proposed the resolution to which I called attention on Tuesday, and which I am now proposing and offering for adoption. The opportunity seems to be one which merely calls for our joining in the request to get the money. The only question is whether we are willing to co-operate with other organizations for this purpose. I understand that the Memorial wants the co-operation of these different bodies. I will say very frankly, some of us are skeptical about the sort of survey, and how valuable it might be, if carried on by some of the social sciences, working alone. Some of us, perhaps, are very

frankly intolerant of what results would be accomplished by that sort of body.

We do know, however, and as I suggested on Tuesday, both the President and the two men who followed him in his discussion concluded that the subject needs the co-operation of these different organizations, if the work is to be done in proper fashion, and I am satisfied, from my own experience with state legislatures, that we are never going to get changes in legislation, or constitutional amendments, unless we are able to speak authoritatively, first, as to what real conditions are, and, in the second place, until we are able to convince all the different agencies who are approaching these subjects from different points of view that any particular proposition is one which has real merit in it. Otherwise, if any proposition from any particular body is put forth, it is going to meet the opposition of the others. The policemen and prosecutors have one point of view, attorneys have another, sociologists have a third, psychiatrists have another, each one of them approaching from its own point of view, working in antagonism with the others, and each time one proposes a piece of legislation it is opposed by the others. If we can all get together on a piece of work like this, maybe we can get somewhere.

I think that this work could be furthered by a survey of this kind, and the objects sought to be obtained by particular bodies might be more nearly accomplished, if this sort of work to be done were done with this co-operation. Therefore I offer the resolution. I will read it again, for the benefit of those who were not present on Tuesday:

"Whereas, the Section of Criminal Law of the American Bar Association, at its meeting in Detroit in September, 1925, adopted by unanimous vote a resolution calling upon the association to authorize a nation-wide survey of the subject of crime, criminal law, and criminal procedure; and

"Whereas, the Social Science Research Council has outlined upon its budget as one of its major interests a survey of the same subject; and

"Whereas, there seems to be a reasonable probability that, if a joint request were made by the Association of American Law Schools, the Social Science Research Council, and the American Bar Association upon the directors of the Laura Spelman Rockefeller Memorial, calling for funds to carry on such a survey, such request would be granted and necessary funds would be provided:

"Therefore be it resolved (1) that the Association of American Law Schools approves the making of a nation-wide survey of the subject of crime, criminal law, and criminal procedure; and

(2) That a committee of the American Law School Association be appointed by the President, with power to co-operate with similar committees of the Social Science Research Council and the American Bar Association for the purpose of preparing a program for such a survey, and for making the necessary request for funds from the Laura Spelman Rockefeller Foundation or other source; and

(3) That such committee be authorized to co-operate with similar committees from the

other associations herein named in the direction and supervision of the said survey.

I move the adoption of this resolution. [Seconded. The motion was carried.]

Mr. Beale: There was no considered effort on the part of all the members of this Association to make a raid on various treasuries, but that seems to be the direction that this meeting is taking, and along that direction I want to say that I have discovered (accidentally) that the point of view of one of these foundations, when it is suggested to them, for instance, that it would be well to endow fellowships for legal research, that they don't care to endow any one school, but if there were some general body that would undertake the administration of such work it would come with a rather strong appeal.

In order that that opportunity may be presented to the proper body through the proper channel, I move that the Executive Committee be authorized at its discretion to apply in the name of the Association to any fund, foundation, or other organization for fostering legal research, or any research for the support or endowment of graduate fellowships in law, to be enjoyed at any law school member of the Association, and that if such a gift is obtained the Executive Committee shall be authorized to administer it until the next meeting of this Association. [Seconded. The motion was carried.]

Mr. Beale: Sir Paul Vinogradoff, who was at the head of legal scholarship and legal education in England, has, as you all know, recently died. He has exhibited so much interest in legal education in this country and has visited so many of our schools that it seemed to some of us fitting that we should by a resolution take note of the loss suffered by his death, and therefore I have been asked to present this resolution:

Resolved, that in the death of Sir Paul Vinogradoff, Corpus Professor of Jurisprudence in the University of Oxford, Anglo-American legal education has suffered a severe loss. From the time that Vinogradoff, through his study of the Medieval Manor, and through his discovery of Bracton's Notebook, gave a remarkable impetus to the study of the history of our law until his latter days, when he was the head of legal education in his great university, Vinogradoff has had a great part in the development of Anglo-American legal thought. By his valued visits to American law schools he fostered that warmth of feeling and unity of purpose of legal teachers in his country and our own, which is so striking a development in our own time.

Resolved, that we desire to express to his university and his family our sympathy in their and our common loss.

To be sent to Lady Vinogradoff, Oxford, England, and to the Vice Chancellor, University of Oxford, Oxford, England.

I move the adoption of the resolution. [Seconded. Carried, all members rising.]

President McMurray: I understand these resolutions are to be forwarded to Lady Vinogradoff and the Chancellor of the University. That shall be done.

The next is the report of the Nominating Committee, by Mr. Maguire.

Mr. John M. Maguire, Harvard: The Nominating Committee reports the following nominations:

For President: Mr. Ralph W. Aigler, of the University of Michigan.

For Secretary-Treasurer: Mr. H. Claude Horack, of the State University of Iowa.

For the three additional members of the Executive Committee: Mr. Orrin K. McMurray, retiring President; Mr. Ira P. Hildebrand, of the University of Texas; Mr. Herman Oliphant, of Columbia University.

I move the adoption of the report. [Seconded. Carried unanimously.]

President McMurray: The report is adopted. Do I hear a motion with regard to the election? It is moved that the gentlemen nominated by the Committee be elected by acclamation.

Mr. Lewis, I appoint you Secretary. Will you kindly cast the ballot?

Mr. Lewis: Mr. President, I cast a ballot for all persons nominated and I report that they are duly elected.

President McMurray: This closes my very happy administration, to myself, of this year's work, and I can only close by expressing to you my thanks for the way in which every one has co-operated in making it what seems to me quite a successful meeting. May I ask Mr. Jones and Mr. Hudson to escort Mr. Aigler to the chair?

I have the honor to submit to you this gavel as a symbol of authority. Last year there were two serious blots, one was the spilling of the ink bottle, which Mr. Lewis was forced to use as a gavel, and the other was the election of myself as President. I hope you will have a pleasant year as I have had, and trust that you will.

President Aigler: As Secretary of the Association it has fallen to my lot a great many times to read in copy and in proof the list of officers of this Association since the time of its organization, about 1900, and in view of the familiarity that I have with the officers

of the Association, I surely cannot ask for a continuance on the ground of surprise. I have been struck by this: That some come to the office of President of this Association by honor, and some by labor. I am quite content to come to the office by the latter way, and I want to take this opportunity to thank you for the honor which you have conferred upon me, which I take is largely due to my labor.

Is there any further business? I feel that we ought not to adjourn without giving somebody a chance to make some remarks with reference to the place of meeting. I took the liberty of shifting the meetings from the other hotel to this one, because I thought perhaps we could get better meeting rooms. In some ways I think we profited; in some ways I am not so sure we did. I want you all to know that I have vigorously labored to have the meetings of this Association taken away from the downtown hotel and taken out to some outlying spot, some outlying quiet spot, where intellectual activity might proceed without counter attraction.

Mr. Edwin R. Keedy, Pennsylvania: Having on many previous occasions made a motion as to the place of meeting of this Association, and having had it uniformly defeated by an overwhelming majority, with the desire to follow precedent, I move the next meeting of the Association be held in this hotel.

Mr. Fraser: I object that the motion is unconstitutional, considering the source from which it comes.

President Aigler: Am I to understand you ask me to rule Mr. Keedy out of order?

Mr. Austin W. Scott, Harvard: Had we not better leave this to the Executive Committee?

President Aigler: I understand Professor Scott moves this be referred to the Executive Committee with power. Any discussion? [Carried.]

President Aigler: May I ask the members of the new Executive Committee to remain. The meeting is now adjourned. [Adjourned at 4:30.]

Notes and Personals

John T. Condon, Dean of the University of Washington School of Law, died on January 5, 1926. Dean Condon was the founder of the University of Washington School of Law and its Dean throughout the twenty-seven years of its existence. He attended the University of Washington, 1879-1881, and took his LL.B. degree at the University of Michigan in 1891. In 1892 he was given the

degree of LL.M. at the Northwestern University Law School. During the years 1892-1899, inclusive, he practiced law in Seattle, and began his years of service at the University of Washington Law School in the latter year. In addition to his position of Dean of the Law School, Dean Condon served as Acting President of the University during the last years of his life.

As a teacher and Dean he was an inspiration to his fellowmen, and his death is an immeasurable loss to the students and faculty of the Law School and to the cause of higher education in the Northwest.



Faculty changes at the Cornell Law School are noted below:

Professor Charles Kellogg Burdick was appointed Dean of the Cornell Law School at the February meeting of the Board of Trustees of Cornell University, in place of George Gleason Bogert, who has resigned to accept a professorship of law at the University of Chicago. Professor Burdick has been Acting Dean during the present academic year, and also filled that office during the year 1923-24.

Dean Burdick was born in 1883, in Utica, New York, and is a son of Francis M. Burdick, who was a member of the original Law Faculty of Cornell. He received his A.B. degree from Princeton University in 1904, and his LL.B. degree from Columbia University in 1908. As an undergraduate he was an editor of the *Daily Princetonian*, and while at Columbia he was an editor and secretary of the *Columbia Law Review*.

After practicing law for a short time in New York with the firm of Wilmer, Canfield & Stone, of which the present Mr. Justice Stone, of the Supreme Court of the United States was a member, Dean Burdick became Professor of Law in Tulane University at New Orleans, where he taught for three years. He then held a professorship of law in the University of Missouri for two years, coming to Cornell as Professor of Law in 1914. During the World War he was on leave from Cornell, acting as Associate Director of the Bureau of Information Service in the Department of Civilian Relief at the American Red Cross Headquarters in Washington. While at the University of Missouri he started the *Missouri Law Bulletin* and was its first faculty editor. In 1919, at the close of the World War, he revived the *Cornell Law Quarterly*, whose publication had lapsed, and acted as its faculty editor during that year.

Dean Burdick is the author of "The Law of the American Constitution," and of "Cases on the Law of Public Service and Carriers," as well as of numerous magazine articles. He was a member of the Cap and Gown Club at Princeton, and of the Phi Delta Phi Law Fraternity at Columbia. He is a member of the American Law Institute, the Academy of Political Science, the American Bar Association, the Century Association of New York City, and the Order of the Coif.

Professor Elliott E. Cheatham of the University of Illinois was appointed by the Board of Trustees to fill the chair left vacant by the resignation of Professor Bogert.

Professor Cheatham was born in 1886. He received his A.B. degree from the University

of Georgia in 1907, and his LL.B. degree from Harvard in 1911. He was a member of the Harvard Law Review board.

Professor Cheatham practiced law from 1911-1914 and from 1919-1924 at Atlanta, Georgia. From 1914-1917 he was an attorney in the Department of Justice at Washington, and in 1917 was Assistant United States Attorney at Atlanta, Georgia. He was in military service from 1917-1919, and taught at the Saumur Artillery School in 1919. He taught in Emory University Law School at Atlanta, Georgia, 1920-1924, while practicing in that city, and is now Professor of Law in the University of Illinois, where he has taught since the fall of 1924.

Professor Edwin H. Woodruff is on sabbatic leave for the second term of the present academic year. He will resume his teaching in the Law School in September, 1926.

Assistant Professor Horace E. Whiteside has been granted leave of absence for the academic year 1926-27, for the purpose of pursuing graduate work in law in the Harvard Law School. He will resume his teaching in the Cornell Law School in the fall of 1927.

Nonresident lecturers are serving as follows:

Hon. Harrington Putnam, formerly Justice of the Appellate Division of the New York Supreme Court, delivered a series of six lectures on Admiralty and Maritime Law during the week beginning February 15. Judge Putnam is the leading authority in the field of Admiralty Law.

Professor Herbert A. Smith, Professor of Law in McGill University, will deliver a series of three lectures during the week beginning March 8th on "Constitutional Government in the British Commonwealth of Nations." Professor Smith received his B.A. and M.A. degrees from St. John's College, Oxford, and studied law in the Inner Temple, London, becoming a barrister in 1909.

Judge Frank Irvine, of Ithaca, will deliver two lectures on the "Practical Problems in the Law of Public Service" some time in April. Judge Irvine was formerly Dean of the Cornell Law School, and was for seven years a member of the New York Public Service Commission.

Arrangements have been completed for the fourth Summer Session in Law at Cornell, which will run from June 21 until September 3, 1926, being divided into two terms, of five and a half weeks each. For entering students a course in Contracts will be given, running through the entire summer session, together with courses in Personal Property in the first term and Agency in the second term.

For those who are not taking up law for the first time there will be courses in Suretyship and Mortgages, given by Professor Morton C. Campbell, of the Harvard faculty;

courses in Wills and Insurance, given by Professor William R. Vance, of the Yale faculty; a course in Trusts, given by Dean Everett Fraser, of the University of Minnesota Law School; a course in Municipal Corporations, given by Dean Charles K. Burdick, of the Cornell Law School; a course in Practice, given by Professor O. L. McCaskill, of the Cornell Law School; a course in Partnership, given by Professor Lyman P. Wilson of the Cornell Law School; a course in Corporations, given by Professor Robert S. Stevens, of the Cornell Law School; and a course in Bankruptcy, given by Assistant Professor J. J. Robinson, of the Indiana University School of Law. The course in Contracts will be given by Assistant Professor Whiteside, of the Cornell Law faculty; the course in Agency will be given by Professor George J. Thompson of the University of Pittsburgh Law School; and the course in Personal Property, by Bertram F. Willcox, now practicing law in New York with the firm of Hughes, Rounds & Schurman. Mr. Willcox graduated from the Harvard Law School and was editor in chief of the Harvard Law Review.

The Summer Session in Law is open to those wishing to begin the study of law, as well as to those who have already taken law work, either at Cornell or at other schools. Those who desire to have their work in the summer session credited towards the LL. B. degree at Cornell, must have the necessary prerequisite academic training, but persons who have not such training may enter the summer session as special students and receive a certificate for the work done.



A great loss was suffered by the Columbia University Law Faculty in the sudden death of Professor Ralph Waldo Gifford early last December. Professor Gifford graduated from Harvard College in 1892 and received his LL.B. degree from the Harvard Law School in 1901. After practicing law in New York for a number of years, he became Professor of Law at the Fordham University Law School in 1906, was pro-dean of that Law School during the years of 1909-1912, and during the next ten years held the chair of Lines Professor of Testamentary Law at the Yale Law School.

Since 1914, Professor Gifford had been a member of the law faculty of Columbia Uni-

versity and held the Nash Professorship of Law since 1922.



The University of Kansas School of Law announces the following changes in its faculty for the summer session of 1926 and for the school year 1926-1927:

Professors W. L. Burdick and Frank Strong, and Associate Professor Thomas E. Atkinson, of the regular faculty, will be assisted in the work of the summer session of 1926 by Professor John E. Hallen, of the University of Texas, and by Professor Edmund M. Morgan, of Harvard Law School. Professor Morgan will give the course in Evidence during the entire ten weeks. Professor Hallen will give the course in Personal Property the first term, and Insurance and Quasi Contract in the second term. Professor Burdick will offer Real Property I and Mortgages during the first term, and Professor Strong will teach Bankruptcy and Municipal Corporations, both in the first term. Professor Atkinson will give the course in Criminal Law during the second term.

Professor Raymond F. Rice, who has been engaged in active practice during his thirteen years of service as a member of the faculty of this school, has been granted a year's leave of absence, in order to devote his entire time to pressing matters in connection with his practice. His work will be given by Associate Professor Thomas E. Atkinson, A. B., LL. B., now a teaching fellow and graduate student in the Yale School of Law. Professor Atkinson received his academic and legal training at the University of Michigan. After five years of practice at Grand Rapids, he served for three years as a member of the faculty of the Law School of the University of North Dakota, and during the summer of 1924 as a member of the faculty of the University of Michigan Law School. He will give the courses in Common-Law Pleading, Equity Pleading, Code Pleading, Evidence, and Practice Court.



The Creighton University School of Law has recently received a valuable addition to the Law Library of 250 volumes from the library of the late Cornelius McGreevey. The books were donated by Mrs. McGreevey, in order to carry out her husband's wish to be of assistance to young men.

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No. 12

Recent Progress in Legal Education

By ALFRED Z. REED

Staff Member of the Carnegie Foundation for the Advancement of Teaching

[To appear as a document of the United States Bureau of Education]

CONTENTS.—I. The Past: Defective organization of the legal profession in 1910; division of the law schools among themselves; inadequate bar admission requirements; diversified law school requirements.—II. The Present: Improved organization of the legal profession; method and aim of legal education; strengthened bar admission requirements; progress in law school requirements.—III. The Future: Miscellaneous problems awaiting solution; the problem of the evening law school; the influence of part-time instruction upon the organization of the legal profession.

FOR nearly half a century there have been organized efforts to effect a nation-wide improvement in the American system of legal education. The modern phase of this movement may be said to have started—in so far as it is possible to assign a definite date—in 1910. It was in this year that similar long-continued efforts by the American Medical Association, to improve medical education first impinged upon the public consciousness, and suggested to lawyers that methods which had proved successful with physicians might be applicable also to the legal profession.

In many respects the task of legal re-

formers was far more difficult than that of their medical colleagues. Before recounting some of the particular obstacles and the progress which has since been made in surmounting them, a general explanation may be hazarded as to why the legal profession was then, and is still, in a relatively backward stage of development. The science of law, or at least that particular portion of this science (if it be a science) which primarily concerns American law schools and bar admission authorities, is not international in the sense that medical science is. In the development of medical schools physicians can draw immediately upon the experi-

ence of the whole world. The task of the American law schools, on the other hand, is severely conditioned by the fact that these schools exist primarily for the purpose of preparing students to practice American law. This is now so different from that of other countries—even from the English common law, of which it is historically an outgrowth and, in a certain sense, still a part—that foreign models of legal education and organization, though often suggestive, are rarely closely parallel. Far less than physicians can lawyers profit by the intellectual resources of other countries. America is virtually obliged to work out its peculiar experiment in government and law by itself, guided only by its own relatively brief and narrow experience.

It will be convenient to consider briefly what the situation was in 1910; then what has been accomplished to improve conditions in 16 years; and, finally, what are the most important problems that still await a satisfactory solution.

I. THE PAST.

First, then, as to some of the ways in which the status of legal education compared unfavorably with that of medical education in 1910.

Defective Organization of the Legal Profession in 1910.

One conspicuous difference between the two professions was the relative lack of effective organization among lawyers. Among their many weaknesses in this respect perhaps the most fundamental was this: The medical profession properly constituted only one of several groups which were engaged in practicing the healing arts or "health service" as a whole. The legal profession, on the other hand, assumed to include every one who was in any way practicing law, though the actual occupations might be as diverse as those of a physician or surgeon, a trained nurse, a dentist, a pharmacist, or a veterinarian. This inclusion of many different kinds of lawyers and pseudo-lawyers under the common head of general practitioner made it difficult

to plan an effective preparation for any one kind, and tended to weaken the esprit de corps of a fictitiously united profession.

Another weakness was that state lines split up the lawyers, far more than the physicians, into mutually independent local units. This weakness is in part due to the nature of the profession. Just as American law, in a general sense, differs from the law of any other country, so that particular blend of legislation and judicial decision which is actually in force in any one state is never precisely identical with the law in force in any other state of the Union. None the less, the general principles are so similar that a comprehensive nation-wide organization of lawyers is indicated as not merely practicable, but also as peculiarly desirable, for the very purpose of counteracting the centrifugal tendencies of our federal system. This comprehensive organization did not exist. Whereas the American Medical Association, since its origin in 1847, had been an integration of state and local medical societies, the American Bar Association, organized in 1878, still competed for membership with independent state and with independent city bar associations. Under these conditions, it contained in 1910 only 3,690 members, or 3 per cent. of all lawyers in the United States. The attendance at the annual meeting was 326, or 9 per cent. of the membership.

Again, the American Medical Association, largely because of its advantageous situation in the two respects above noted, had already developed an effective system of professional supervision over medical schools and medical licensing authorities. Its extensive membership made possible the publication of a weekly Journal, through which the facts could be published to the profession at large. It also made possible the establishment of a Council on Medical Education, with compensated executive officers, for the ascertainment of these facts. In 1910, the work of this council had culminated, for the time being, in the publication of a classified list of schools, and of a reg-

istry containing the educational record of all practicing physicians. Nothing of this sort existed in the American Bar Association. Its only periodical publication was the report of proceedings at its annual meetings. Here were recorded the unhappy rivalries of a mutually independent "Committee on Legal Education and Admissions to the Bar" and "Section of Legal Education"; the more or less permanent but uncompensated members of the committee or officers of the section made recommendations which occasionally resulted in the passage of relatively fruitless resolutions by the association.

Still another factor of great importance in its bearing upon the capacity for united effort possessed by either profession was the different position occupied by the professional school. In the medical profession the medical school was accepted, both inside and outside of the profession, as a *sine qua non* in the process of preparation. In an overwhelming majority of states graduation from a medical college was compulsory. "Practicing physician" and "M. D.," the degree of doctor of medicine, were, and long had been, virtually interconvertible terms. Legal education, however, was still in the process of emerging from the apprenticeship phase. The relatively modern law school had everywhere won its first victory over the conservative supporters of the older system of office preparation; in all states study at a law school was possible under the rules for admission to the bar. In no state, however, was law school study obligatory; and many influential older practitioners had not yet grasped the truth that a system of legal preparation which had worked well in their cases could not simply because of the greatly increased volume and complexity of the law, be expected to yield equally good results today.

Accordingly, alongside of the American Bar Association, with its committee and section, the Association of American Law Schools made its own independent decisions as to the standards that were

appropriate for admission to membership in its body. This organization of law teachers was, on the whole, a more effective agency for the improvement of legal education than the practitioners' association, but was not taken very seriously by the profession at large.

Division of the Law Schools Among Themselves.

These comparative weaknesses in the organization of the legal profession were the more regrettable because of a much more evenly balanced division of forces in the law school world. Although the development of a proper system of medical licensing tests has undeniably been complicated by the existence of medical sects, there could be no question as to the dominance, both in the associations of medical practitioners and in the Association of American Medical Colleges, of the orthodox thought already represented in the leading schools. In legal education, on the contrary, there was nothing like general agreement as to what was orthodoxy and what was heresy.

The Harvard school was the strongest of the law schools. Its famous case method of instruction, with certain resultant conclusions as to the end and aim of legal education, had long lived down its early reputation as a Boston fad. Harvard had been accepted as a leader and a model by a considerable number of institutions, including most of the larger universities. This point of view was certainly already in the ascendant in the Association of American Law Schools. Even here, however, sentiment was by no means united, and the members of this association numbered, all told, less than one-third of the total number of law schools in the country.

Excluded institutions attacked the Harvard system and philosophy on various grounds and commended themselves to many practitioners of standing by themselves departing less widely from the original ideals of the law office. Entirely apart from attacks based upon ignorance and misunderstanding, there was certainly at least some plausibility in the

charge that Harvard's adherents were a little too uncompromising in proclaiming as the sole purpose of a legal education the development of a "legal mind." Practical training, and detailed information in regard to the law of the local jurisdiction, were among those aspects of a complete education to which these schools seemed to be paying too little attention.

Thus the easily explicable feeling that good law schools were not so important as their theoretically minded professors thought they were was reinforced by a suspicion that the theory of education exemplified in the leading schools was itself unsound. It can hardly be said that there was a rabid partisan discussion over a matter in which most practitioners took no interest at all; but prominent practitioners at least thought, and sometimes said, that the case method was a "fetish," thereby running the risk of being themselves dubbed "old fogies."

Inadequate Bar Admission Requirements.

The lack of harmony between legal practitioners and schoolmen, and the further divisions within the ranks both of organized bar associations and of law schools, militated against any rapid advance of standards in at least two ways.

First, and most obviously, in contrast with the powerful educational machine headed by the Council on Medical Education and supported by the great majority both of practicing physicians and of medical schools, different groups of reformers in the disorganized legal profession each cherished separate ends. Instead of traveling together upon a broad highway of progress, each regarded the other's avenue of reform as at best an unimportant by-path—too often as one that led in a positively wrong direction. If they united upon anything, it was in their tendency to ascribe to practitioners at large a cynical apathy, for which the feebleness and confusing variety of their own leadership was primarily to blame.

In the second place, and more con-

cretely, it was impossible under these conditions to build up an adequate system of bar admission requirements.

In medical education, however much remained to be done in the way of toning up the licensing system, its general principles and its objectives were clear. Already the great majority of states positively required applicants for admission to medical practice to have graduated from a medical school. The state boards of medical examiners were designed to supplement this system and to fortify the dominant type of sound medical education. In the case of a good school, their examinations constituted a precaution, additional to the tests provided by the school's own faculty, against failure on the part of individual students to take advantage of their opportunities. They constituted an even more important weapon of defense against low-grade medical schools. The boards had it in their power to improve, or even to destroy, such schools by failing to pass their graduates, or even by denying to their graduates the right to take the examination. Even in 1910 it was probably broadly true that good graduates of good medical schools had little anxiety as to their ability to pass the medical licensing tests; and, although the existence of medical sects complicated the task of weeding out inferior schools, the united profession has been successful in achieving the following ends: Schools that profess to be orthodox have been assisted to maintain proper standards; if products of an unorthodox type of medical education can often secure permission to practice the healing art, at least they are usually prevented from holding themselves out as "regular" physicians.

By contrast, in the legal profession no single state required applicants for admission to practice to have graduated from or even to have attended a law school. And in the case of applicants who attended law schools not the slightest distinction was made, either in professional or in popular usage, between "regular" lawyers and others. Products of the case-method law school, of the

text-book or dogmatic law school, and of no law school at all, stood upon a footing of precise equality as regards both the process of admission and the legal privileges that would be thereby attained.

The effect of this indiscriminating uniformity was at once to exaggerate the importance of the bar examination and—as will be shown later—to destroy the conditions under which it can be used profitably to measure educational attainments. The examination could not be attached to a proper system of preparation as a useful supplement because no one knew what a proper system of education was. It had come, therefore, to occupy the position of an independent educational test; as such it was more seriously regarded both by students and by practitioners than the supplementary medical licensing examination. Having this factitious importance, it distracted attention from other devices that are much better calculated to promote competence and character among lawyers. Requirements of preliminary general education and of a specific period of law study were largely ignored because of deluded reliance upon an unsupported bar examination.

Diversified Law School Requirements.

Another complication in legal education, from which medical education is relatively free, had its origin partly in the conditions above described and partly in the inherent difference between law and medicine. The time that students are required or expected to devote to their preparation is only one of many aspects of professional education. It is a highly important aspect, however, and, because it lends itself to measurement by figures, it has always been specially emphasized both by reformers and by fact-collecting agencies. The diversity in this respect among law schools in 1910 was far greater than that among the medical schools, and imposed a correspondingly heavier burden upon those who wished not necessarily to improve, but even to understand, legal education.

Three elements are involved in any attempt to estimate the time that a student devotes to his professional preparation. Of these, the first and most obvious is the duration of his course in the professional school. In this respect the medical course had already become definitely standardized at its present figure of four academic years, and the path was cleared for a movement to add a supplementary clinical year. In 1910 every medical school conducted, at least ostensibly, either a complete four-year course or the first half of such a course, designed to be completed in another school. In legal education, however, the orthodox period was only three years, and it was not until as recently as 1905 that the Association of American Law Schools had required its members to comply even with this standard. No less than 40 law schools outside of the association, or nearly one-third of the total, still announced courses of two years, or even of a single year, leading to a law degree. The situation resembled that which had existed in medical education immediately after the Civil War, before the inauguration of their modern era of standardization.

A second element of equal importance is the time that a student devotes to his studies while in the school. Year for year, a school which holds its sessions during the regular working hours of the day, for the benefit of students who are not engaged in any outside occupation, is, of course, in a position to demand much more than an evening school run for the benefit of self-supporting students. Just how great the difference is can hardly be expressed in precise mathematical terms. It is possible, however, to state with precision the number of medical schools which operated under this very substantial handicap. The number in 1910 was only 4 out of a total of 140.¹

¹ For the figures relating to medical education which are used in this paper the writer is indebted to Dr. N. P. Colwell, secretary of the Council on Medical Education, who has also kindly read the manuscript prior to publication.

Very different was the situation in law. As truly here as in medicine, institutions that held their sessions during the evening or during the late afternoon operated under a serious handicap as regards their maximum possibility of accomplishment, year by year. On the other hand, an argument of some cogency can be made that it is of the utmost importance that students of modest means shall not be denied access to the politically privileged bar, and that the only practicable avenue of preparation for the overwhelming majority of such persons is the evening or part-time law school. Whether this argument, which is based upon a recognition of the peculiarly intimate connection between law and politics, is or is not sound, is a question which will be discussed later. The point of immediate interest is that, whether sound or not, it provides a basis for the part-time law school that is lacking in the part-time medical school. Incidentally, artificial light does not impair the efficiency of instruction in law as much as it does in a subject where laboratory work in the natural sciences is required. Again, the amount of capital needed to equip something that can pass muster as a "school" is vastly smaller in law than in medicine; a considerable section of the public is ready to believe that a few chairs, a few books, and a printed announcement convert an attorney's office into an educational institution.

These differences between the nature of medicine and of law explain why schools which appeal particularly to self-supporting students are so much more numerous in the field of legal education. Under bar admission rules which give credit for study either in a law office or in a law school, offices develop into "schools" so insensibly that the precise number of these latter can never, in the nature of things, be ascertained. If the count be confined, however, to institutions sufficiently pretentious to confer a law degree, we find that in 1910 no fewer than 60 out of 124 law schools, or almost one-half, were either purely part-

time institutions or were "mixed" schools holding sessions for independent divisions of full-time and of part-time students.

The third element that must be taken into account in estimating the time that law-school graduates devote to their preparation is the admission requirement of the school—that part of the student's total preparation which he secures before he begins the study of law proper. Here there was less difference between the two professions. Of the 136 full-time medical schools the great majority—112, or 82 per cent.—had an entrance requirement, at this date, of a high-school education or less. Of the remainder, 8 required one college year prior to the four-year medical course, a total of five years after the high school; and 16 required at least two college years, a total of at least six years after the high school. Corresponding to these were 43 full-time, three-year law schools, of which again the great majority—31, or 72 per cent.—had an entrance requirement of a high-school education or less, while 4 required one year, 3 required two years, and 5 required at least three years of college. Except that the law course was one year shorter than the medical course, this particular group of law schools conformed fairly closely to the full-time medical schools as regards the time that students devoted to their preparation. In both groups there was a feeling that the moment had arrived for increasing entrance requirements among the schools generally to the level already attained by some. This common ideal was reinforced by the circumstance that it was in the larger universities that the schools with the highest entrance requirements were usually found.² To this extent medical schools and law

² Six universities—Harvard, Yale, Chicago, Wisconsin, Stanford, and the University of California—announced, in 1910, an entrance requirement of two college years, or over, for both medical and law departments. No independent medical school or independent law school required any college work, and many had no entrance requirement at all, at least in actual administration. No attempt has been made to distinguish between these cases and a genuine high-school requirement.

schools resembled one another, in 1910, both in their actual condition and in their aims.

But only to this extent. For whereas the 136 full-time, four-year medical schools included, as has already been pointed out, virtually all the medical schools then in existence, the 43 corresponding law schools constituted only one-third of the total. The following table attempts to make clear how many features besides entrance requirements had to be considered if the nation-wide standardization of medical schools was to be duplicated in legal education. The numerals marked by an asterisk (*) include all medical schools and all law schools that from the point of view of the medical standardizers could already be regarded as "orthodox," on the ground that students were expected to devote to their studies their entire time

during a period of four years in medicine or three years in law. Such schools are shown to be divided into groups that required periods of three years, of four years, of five years, and of six years to elapse between the date when the student leaves the high school and the date when he secures his professional degree. Finally, the number of schools that departed from orthodoxy, as regards either the duration of their professional course or the time of day at which their class-room sessions were held, is indicated by unasterisked figures. There are 10 such categories, comprising a total of 81 law schools, as compared with one similar medical category comprising 4 medical schools in all. If sweet simplicity and standardized uniformity are an indispensable element in human institutions, in 1910 an Augean stable awaited the legal reformer.

Medical Schools and Laws Schools Classified According to the Time Required, after Completion of the High School, to Obtain the Degree, 1900-10.

Years Required.	Medical Schools (140)		Law Schools (124)		
	Full Time.	Part Time.	Full Time.	Mixed.	Part Time.
At least six years:					
At least two years in college, followed by four years in medicine.....	*16	.....	.....	.....	.....
At least three years in college, followed by three years in law.....	.....	.....	*5	.....	.....
Five years:					
One year in college, followed by four years in medicine.....	*8	.....	.....	.....	.....
Two years in college, followed by three years in law.....	.....	.....	*3	.....	.....
Four years:					
Four years in medicine, after high-school education or less.....	*112	4	.....	.....	.....
Four years in law, after high-school education or less.....	.....	.....	.....	.....	3
One year in college, followed by three years in law.....	.....	.....	*4	1	.....
Two years in college, followed by two years in law.....	.....	.....	2	.....	.....
Three-year course in law, after high-school education or less.....	.....	.....	*31	8	29
Two-year course in law, after high-school education or less.....	.....	.....	18	2	16
One-year course in law, after high-school education or less.....	.....	.....	1	.....	1
Total.....	136	4	64	11	49

See preceding paragraph for explanation of asterisks in above table.

II. THE PRESENT.

Legal education has made great advances during the past 16 years in all four of the features discussed in the preceding pages.

Improved Organization of the Legal Profession.

The improvement has been especially marked in the field of professional organization. The American Bar Association has increased in membership more than sixfold—from 3,690, or 3 per cent. of the total number of lawyers, to 23,559, or 17 per cent. The gain, having been stimulated by an active "drive," is not all good; the percentage of the total membership who attended the annual meeting fell from 9 per cent. in 1910 to less than 7 per cent. in 1925; but even so the actual number of members in attendance rose from 326 to the imposing figure of nearly 1,700.

Of more importance than mere size were (1) the establishment, in 1915, of a quarterly periodical, which developed in 1920 into the present ably edited monthly *Journal of the American Bar Association*; (2) the beginnings of co-operation with state and local bar associations through the establishment, in 1916, of an active Conference of Bar Association Delegates; and (3) the adoption, in 1919, of constitutional changes by virtue of which the former system of mutually independent committees and sections has been remodeled. Each "section," including that devoted to "Legal Education and Admissions to the Bar," now chooses that particular "Council of the American Bar Association" which is concerned with the same subject-matter.

Meanwhile, the Association of American Law Schools has likewise grown from an organization of 37 to one of 61 law schools in continental United States, or 63, counting schools in the Philippine Islands and Canada. Expressed in percentages, it now includes, not 29 per cent., but 37 per cent., of the total number of schools. Since 1914 the regular annual meeting of this association, instead of being submerged, as previously,

in the large summer gathering of the American Bar Association, has been held independently during the Christmas vacation. This official severance of the two organizations has made for much more successful meetings on the part of the schoolmen than was possible when their sessions had to be fitted into the interstices of the Bar Association's program. An anticipated loss of influence with the practitioners was averted by the scheduling of a special meeting in the summer of 1920, in conjunction with the Bar Association. Through this maneuver control of the machinery of the reorganized Section and Council on Legal Education was placed in hands sympathetic with the Association of American Law Schools. A special committee was appointed to make recommendations looking to the improvement of those admitted to the bar. The following year the recommendations of this committee were adopted by the Section and by the American Bar Association, and in 1922 were indorsed, with certain modifying interpretations and explanations, by the Conference of Bar Association Delegates at a special meeting held in Washington, D. C. During these same years, 1921 and 1922, the Association of American Law Schools specifically indorsed the action of the American Bar Association, and brought its own membership requirements into conformity with these now orthodox standards; the requisite amendments to its articles of association became fully effective in the autumn of 1925.

It is significant that in this important movement, as in the still more notable organization of the American Law Institute, mentioned in the following section, the lead was taken by schoolmen. That they should now be so highly regarded as to make this possible is a measure of the progress that has been made toward unifying the forces of reform.

Another instance of co-operative effort that may properly be mentioned in this connection was even more directly stimulated by developments in the field of medical education. The year 1910

had witnessed the publication of the Carnegie bulletin, *Medical Education in the United States and Canada*.³ Although not written by a physician, the data used in its preparation had been secured in co-operation with the Council on Medical Education. The volume had been warmly welcomed by the medical profession as an aid in its successful campaign against inferior medical schools; in addition, because of the wide publicity which it gave to this campaign, it suggested to lawyers that they might profitably learn from physicians how to improve their own system of education. The first manifestation of this new inclination to follow the lead of a sister profession was, naturally enough, an attempt to induce the Carnegie Foundation to perform for legal education a service similar to that which it had already rendered in the medical field. During the winter of 1912-13 formal requests to this effect were made both by the American Bar Association, through its committee on legal education, and by the Association of American Law Schools through its executive committee. The inquiry was promptly organized under the general direction of one whose previous training had been acquired in the field of politics or government, rather than in that of its technical subdivision, professional law. Practicing lawyers and law teachers have contributed generously of their time to give to the successive volumes published by the Foundation whatever merit they possess.⁴ The facts that have been accumulated, and the conclusions which have been drawn from these facts, have aroused general interest in the legal profession. The Carnegie Foundation is not engaged in propaganda in support of the views expressed by

the individual authors of these volumes, or in support of any other views. Its studies must, however, be fairly included in any enumeration of organized efforts to assist the progress of legal education.

Method and Aim of Legal Education.

A considerable advance has been made also toward reaching a general agreement as to the merits and limitations of the case method. The publication, as part of the Carnegie inquiry, of Redlich's study of the case method, did a good deal to clear up misunderstandings in regard to its nature, and largely dispelled lingering doubts as to its essential value. It has now without question displaced lectures and text-books as the orthodox method of legal education in this country.

On the other hand, the primary justification for the method was shown by Professor Redlich to lie in the peculiar nature of Anglo-American law. Building on this foundation, the view was expressed in a subsequent volume of the same series, *Training for the Public Profession of the Law*, that the method was peculiarly appropriate to the United States for the reason that here the law was peculiarly confused. The multiplicity of our jurisdictions, each with its court of last resort, produces a tangle of legal principles, the reduction of which to systematic form has hitherto defied the efforts of text-book writers. Undoubtedly, therefore, the case method of preparing law students for their professional responsibilities is at present the method that is best adapted to this country. For, as its advocates rightly claim, it is the method which best develops that power of legal reasoning which is essential, both to practitioners and to scholars, in dealing with the refractory material of American law. For its full success, however, certain conditions must exist in the law schools themselves. Furthermore, even when these conditions are present, attention was called to the fact that the necessity of employing this valuable but cumbersome method has squeezed out of the student's preparation

³ Carnegie Foundation for the Advancement of Teaching, Bulletin No. 4, by Abraham Flexner.

⁴ The following three bulletins have been already published for gratuitous distribution: No. 8, *The Common Law and the Case Method in American University Law Schools*, by Josef Redlich, 1915; No. 13, *Justice and the Poor*, by Reginald Heber Smith, 1919; No. 15, *Training for the Public Profession of the Law*, by Alfred Z. Reed, 1921. A fourth bulletin, bearing the title *Present-Day Law Schools*, is announced as now passing through the press. In addition, the Foundation issues an annual pamphlet which reviews recent progress and gives certain details as to bar-admission requirements and law schools.

many elements that it would be desirable, if possible, to restore. It was suggested that case method scholars might profitably turn their attention to the task of making our law simpler, and, to this end, engage in the production of good text-books.

Since the publication of these views, the American Law Institute has been organized (in 1923) primarily for the purpose of reducing the present chaos of legal precedents to something like intelligible form. Should this body accomplish as much as the character of its membership and scheme of operation give reasonable ground to hope,⁵ it may be that at some date in the far future the case method will be valued principally for its service in training legal scholars to perform a monumental task. Meanwhile, the suggestion that, for training present-day practitioners, the method possesses, along with its paramount advantages, likewise certain drawbacks, may have had some slight influence both in the schools that employ it and in those that do not. The orthodox schools, feeling that an old partisan discussion has finally resulted in their triumph, may be a trifle more ready to recognize the defects of their qualities, and to consider what remedies, if any, can be presently supplied. Schools where conditions are unfavorable are perhaps less inclined to make pretensions inconsistent with the instructional methods which their teachers are, and ought to be, actually employing.

Strengthened Bar Admission Requirements.

The basis of the present standard requirements for admission to the bar is to

⁵ The Institute is composed of higher judges and heads of bar associations, learned societies, and association law schools, ex officio, together with a limited list of elective members. Its stated aims are "to promote the clarification and simplification of the law and its better adaptation to social needs, to secure the better administration of justice, and to encourage and carry on scholarly and scientific work." At present it is devoting a portion of its energies to the preparation of a draft code of criminal procedure. Its principal immediate objective, however, is to restate successive branches of the law in such form as to relieve the courts from the burden which is now frequently imposed upon them of attempting to reconcile conflicting judicial decisions in a large number of co-ordinate jurisdictions.

be found in certain resolutions that were drafted by a committee of prominent practitioners, headed by Hon. Elihu Root, in 1921. As already stated, these resolutions were formally adopted the same year both by the Section on Legal Education of the American Bar Association and by the association itself. They read as follows:

"(1) The American Bar Association is of the opinion that every candidate for admission to the bar should give evidence of graduation from a law school complying with the following standards:

"(a) It shall require as a condition of admission at least two years of study in a college.

"(b) It shall require its students to pursue a course of three years' duration if they devote substantially all of their working time to their studies, and a longer course, equivalent in the number of working hours, if they devote only part of their working time to their studies.

"(c) It shall provide an adequate library available for the use of the students.

"(d) It shall have among its teachers a sufficient number giving their entire time to the school to insure actual personal acquaintance and influence with the whole student body.

"(2) The American Bar Association is of the opinion that graduation from a law school should not confer the right of admission to the bar, and that every candidate should be subjected to an examination by public authority to determine his fitness."

Since then these original standards have been somewhat relaxed through qualifying interpretations placed upon them by the Council on Legal Education. The proposed admission requirement of two college years must be read in the light of the following official statement:

"A school which admits certain students who do not fully meet the requirements will not be considered as failing to comply with standard (a), provided the number of such students does not exceed 10 per cent. of its enrollment."

Again, for the purpose of applying standard (b), the council has been compelled to face the question, "How long must a part-time course be in order to be equivalent in the number of working hours to a three-year full-time course?" The following ruling establishes an extraordinarily low official figure:

"A part-time course of at least 160 weeks, covering four school years, is the equivalent of a three-year full-time course. This action is the same as that taken by the Association of American Law Schools on the same problem."

Finally, although the original standards were in general indorsed at a special session of the Conference of Bar Association Delegates held in Washington, D. C., in February, 1922, considerable opposition was expressed. In order to meet some of the objections the proponents of the ratifying resolutions included in them the following:

"We indorse, with the following explanations, the standards with respect to admission to the bar adopted by the American Bar Association on September 1, 1921:

* * * * *

"Since the legal profession has to do with the administration of the law, and since public officials are chosen from its ranks more frequently than from the ranks of any other profession or business, it is essential that the legal profession should not become the monopoly of any economic class. We indorse the American Bar Association's standards for admission to the bar because we are convinced that no such monopoly will result from adopting them. In almost every part of the country a young man of small means can, by energy and perseverance, obtain the college and law-school education which the standards require. And we understand that in applying the rule requiring two years of study in a college, educational experience other than that acquired in an American college may in proper cases be accepted as satisfying the requirement of the rule, if equivalent to two years of college work. We believe that the adoption of these standards will increase the efficiency and strengthen the character of those coming to the practice of law, and will therefore tend to improve greatly the administration of justice. We therefore urge the bar associations of the several states to draft rules of admission to the bar carrying the standards into effect and to take such action as they may deem advisable to procure their adoption.

"Whenever any state does not at present afford such educational opportunities to young men of small means as to warrant the immediate adoption of the standards, we urge the bar associations of the state to encourage and help the establishment and maintenance of good law schools and colleges, so that the standards may become practicable as soon as possible."

The concluding declaration that these standards are not everywhere practicable

has proved to have greater weight than the optimistic assertion that "in almost every part of the country" they are. The concession has done more to dampen the ardor of bar admission reformers than the initial hortatory passages have accomplished in inflaming their zeal. Over four years have elapsed since the passage of the original resolutions by the American Bar Association, and still not a single state conforms to all of these standards, even in their later modified form. Only one state has followed the fundamental recommendation that all applicants for admission to the bar must graduate from a law school.⁶ Only four states require, before the period of law study begins, even the equivalent of two years of college training.⁷

This outcome of recent professional activities has been a disappointment to some of the participants. If the existing situation be compared, however, with that which existed a few years ago, it will be found that there are at least three grounds for encouragement.

In the first place, it is a great gain to have secured even temporary harmony among so many professional organizations and factions. Hitherto, practitioners and schoolmen, committees and sections, national associations and local associations, have pressed forward on divergent paths toward their common goal. It is not so important that they should be surely headed and rapidly moving in the right direction as it is that they should now at last be united in their search for the true avenue of reform. Whether it be the road they are now traveling or another one, they are more apt to find it if they search for it together.

In the second place, false starts should not be regarded as wasted efforts. Rather are they an inevitable part of the process of spying out the land. The present orthodox plan of reforming the conditions under which applicants are admitted to the practice of the law calls for the imposition of certain uniform re-

⁶ West Virginia (beginning 1926).

⁷ Kansas, Illinois (beginning 1926), West Virginia (beginning 1926), and Ohio (beginning 1927).

quirements. It is only on the basis of knowledge gained through this movement that it can be determined what are the defects of the plan, whether in the details of the requirements or in the attempt to impose them upon all applicants uniformly.

Finally, even though the precise aims of the standardizing organization seem now not likely to be realized, their formulation has stimulated general interest in the problem among legislators, judges, and examining boards. About 20 states have done at least something to improve their primitive admission systems.

Progress in Law-School Requirements.

Among law schools there has been much greater progress, notably as respects the aspect of legal education emphasized in standards (a) and (b) of the American Bar Association—the time that students are required to devote to their studies. The activities of the new Council on Legal Education in drawing up an approved list of law schools have been reinforced by the increased membership requirements of the Association of American Law Schools, with the result that in two of the three elements involved in this time computation there has been a positively spectacular advance. The number of law schools announcing a course of less than three academic years has been reduced from 40 to 8. The number of schools announcing an entrance requirement supposed to be the equivalent of two college years or over has been increased from 10 to 81, or eightfold. The combined effect of lengthening two-year professional courses and requiring also preliminary college work has been to increase the number of full-time three-year law schools, with entrance requirements of two college years or more, from 8 to 65, or, again, eightfold. This betters even the record of progress made in building up medical schools of a roughly corresponding type. During the same period the number of full-time four-year medical schools with

similar entrance requirements increased from 16 to 74, or less than fivefold.

Unfortunately for the comparison, this is only part of the story. It is true that the legal profession, like the medical profession, has recently been signally successful in building up schools that demand the full time of their students during five or six years. What proportion, however, do these constitute of the total number of schools?

In medical education such schools constitute 92 per cent. of the total number. The explanation of this high figure is that the number of full-time schools has dwindled from 136 to 79, of which all except 5 maintain the standard entrance requirement, and that, of the original group of 4 part-time medical schools, only a single survivor remains. In a word, the favored type has succeeded in driving virtually all competitors from the field, with a resultant great decrease in the number of medical schools in general. During the last few years a similar development has occurred in dental education.

In legal education, on the other hand, the total number of full-time schools has increased since 1910 from 64 to 76, or 19 per cent. The total number of part-time and mixed schools has increased much more rapidly from 60 to 91, or over 50 per cent. These schools, which in 1909-10 already constituted nearly one-half of the total number of law schools, comprise now 54 per cent. of the total. By contrast, full-time three-year law schools, with entrance requirements of two college years or more, in spite of their recent great increase, to-day number only 39 per cent. of the total number of law schools.

The following table, constructed on the same plan as that on page 701, shows how successful standardizing efforts have been in converting nearly all surviving medical schools into a single improved type. It also shows how the result of corresponding activities in legal education has been an even greater diversification of types than existed when this movement began.

Medical Schools and Law Schools Classified According to the Time Required, after Completion of the High School, to Obtain the Degree, 1925-26.

Years Required.	Medical Schools (80).		Law Schools (167).		
	Full Time.	Part Time.	Full Time.	Mixed.	Part Time.
At least six years:					
At least two years in college, followed by at least four years in medicine.....	*74				
At least two years in college, followed by four years in law.....					5
At least three years in college, followed by three years in law.....			*11		
Five years:					
Five years in law.....					1
Two years in college, followed by three years in law, after high school or less.....			*54	8	3
Four years:					
Four years in medicine, after high school or less.....	5	1			
Four years in law, after high school or less..				1	34
One year in college, followed by three years in law.....			5	4	9
Three-year course in law, after high-school education or less.....			5	4	15
Two-year course in law, after high-school education or less.....					7
One-year course in law, after high-school education or less.....			1		
Total	79	1	76	17	74

*These schools conform to the now orthodox legal or medical standard of two years in college, followed by full-time professional study.

This comparison provides food for thought, rather than an occasion for lamentation. The primary reason for the great variety which the table shows to exist among law schools (16 separate groups of schools, classified according to student time, as compared with 3 groups of medical schools) is that part-time work has not only firmly established itself in legal education, but has been affected, like full-time work, by the movement to lengthen the law course and to increase entrance requirements. This is certainly a salutary development, so far as it goes. Furthermore, although most lawyers and law teachers will probably regret that, whereas in 1910 there were fewer law schools than medical schools, there are now twice as many schools of law, it is difficult to demonstrate convincingly that our present machinery for providing legal education exceeds our social need. Finally, even the circumstance that a favored type of institution, superior to all others as respects the de-

mands it makes upon the time of its students, includes only a minority of law schools, while the majority all differ widely among themselves, may provoke two very different emotional reactions. To those who are unqualifiedly committed to the present standardizing movement, it must, as above intimated, seem unfortunate that so many law schools decline to be standardized. On the other hand, it is possible that here, as in the field of bar admission requirements, the trouble may lie, not in inadequate response to reformatory efforts, but in the program of reform itself. If this be true, we should welcome the experience gained during this period of partial success as a basis for making an enlightened revision of plans for the future.

III. THE FUTURE.

In comparison with the situation in which they found themselves 16 years ago, it is clear that the lawyers have made great progress. Judged, however,

by their needs, or by the record of other professions, they still have a long distance to go. Whether because of their backwardness, or because of inherent and ineradicable differences between law and medicine, they have not been anything like so successful as the physicians in building up an effective system of professional preparation and supervision.

In the section immediately following, several of the still unsolved problems or unsatisfied needs of legal education will be briefly noted, in the same order as in the previous discussion. These will be followed by a more extended treatment of that topic which in its immediate importance transcends all others—evening or part-time instruction and its influence upon the organization of the legal profession.

Miscellaneous Problems Awaiting Solution.

The American Bar Association, thanks to its successful membership drive, enjoys increased financial resources. As an offset to this undoubted gain, it has become too large to be regarded as a select or a compactly efficient body, and yet is not large enough to include, among its own members, more than a small minority of the American legal profession. Its vigorous, but highly anomalous, section, or conference, of delegates from state and local bar associations, hardly does more than point the way to that more thorough-going adoption of the representative principle which has proved such a source of strength to the American Medical Association. The Council on Legal Education and Admissions to the Bar is a great improvement upon the former mutually independent committee and section dealing with the same topics; but it still needs a compensated official staff to enable it to exert an influence comparable to that of its model, the Council on Medical Education. The ably edited American Bar Association Journal, with its 60 or 70 monthly pages, constitutes perhaps as heavy a dose of periodical literature concerned with matters of general professional interest as the average American lawyer

can at present digest; it compares with the 70 or 80 pages every *week* that makes up the Journal of the American Medical Association. The lawyers can show nothing resembling the elaborate studies of medical schools and licensing tests that appear annually in the educational and State board numbers of this periodical; nor have they anything analogous to the official American Medical Directory, the latest (1925) edition of which lists 161,358 physicians, with information as to the education of each and the date at which he secured his license to practice.

The establishment of the American Law Institute is an event of the greatest importance in the development of legal research. It marks the fruition of half a century of scholarly labor under the case method. It provides a definite objective for hitherto rather purposeless postgraduate schools of law. Yet the aggregate of time and of money that is now devoted to legal research of every sort is positively trivial to what is spent in medical institutes and medical schools.

Bar admission requirements, though improving, are still, in almost every state, less severe than the requirements for a license to practice medicine. The following table reveals the extent to which the states conform to certain standards that have been regarded as essential both by the American Bar Association and by the American Medical Association.

Comparison between Bar Admission and Medical Licensing Requirements in 48 States and the District of Columbia, 1925.

Number of Jurisdictions Requiring—	Medicine.	Law.
Graduation from a professional school	48	1
At least 2 years of preliminary college education	38	3
At least a preliminary high-school education	44	17
At least 5 years of professional training	11	.....
At least 4 years of professional training	49	.....
At least 3 years of professional training	49	31
Examination of all applicants by public authority	49	35

The contrast between the two columns raises a question to which allusion has already been made, namely, whether the American Bar Association, in its efforts to improve professional standards, may not have followed a little too closely the model set by its sister profession. But, entirely apart from this question, the situation revealed by the last column of the table, taken by itself, cannot be justified. To take only a single illustration: There may or may not be inherent differences between law and medicine which make it undesirable for the legal profession to enforce, for every lawyer and in every state, the standard of two years of preliminary college work made essential for "class A rating" by the Council on Medical Education in 1918, and enforced by 38 medical licensing boards in 1925. Consideration of this question ought not to delay remedies for an evil that is scandalous from every point of view. This is that no less than 32 jurisdictions do not require prospective lawyers to have even a high-school education before they begin their law studies.

Finally, let us once more turn from the conditions which surround the law schools to the schools themselves. Even though the effect of the part-time movement upon legal education were entirely ignored, it is already evident from the table printed on page 707 that law schools tend to lag behind medical schools as regards their entrance requirements and the length of their professional course. As a matter of fact, the disparity in both these respects is decidedly greater than there shown, for the reason that more exacting standards have been applied in medicine than in law. In computing the number of institutions that require at least two college years for admission, law schools have been included whose entrance requirements would not be recognized by the Council on Medical Education as complying with their rule. Similarly, as to the duration of the respective professional courses, a movement for requiring a year's service in a hospital as an interne has resulted in lengthening the period of professional

training for virtually all physicians from four academic years to five. This additional year figures, as shown above, in the medical licensing requirements of several states. It is also a specific requirement for the degree in several medical schools. On the other hand, not only is the legal profession all at sea as to the general problem of whether, after preliminary general education and after theoretical work in the law school, an additional probationary period of practice can or cannot profitably be required. Quite apart from this complication, some existing law schools which are credited in the table as maintaining three-year or four-year courses do so only in a somewhat fictitious sense. It is true that this much time must be spent in the school before a student may receive the degree. Not infrequently, however, the great majority of students who are actually in the school come with the intention of remaining only during that much shorter period which will suffice to satisfy low bar-admission requirements.

The Problem of the Evening Law School.

Interesting and important as are the considerations sketched in the preceding section, the fundamental unsolved problem of legal education is now, as it has been for many years: What is to be done with that sturdy plant (or, as some would have it, weed) the evening or "part-time" law school?

Since evening schools first began to be sufficiently numerous to attract attention, four attitudes in regard to them may be distinguished: The attitude of ignorance, of condemnation, of negative tolerance, and of positive and reasoned approval of the type, if not of its existing representatives.

The first attitude, which is still embodied in the bar admission rules of a great majority of states and accounts in large part for the rapid multiplication of these schools, may be briefly summarized as follows: As between a law course that is conducted during the regular working hours of the day and one that

resembles it in all respects except that its sessions are held during evening hours, there is no substantial difference. Indeed, the advantage, if any, is probably with the evening school, for the reason that it is frequented by relatively mature and earnest students who are supporting themselves, instead of by boys who devote much of their time at their father's expense to fraternity, athletic, or other outside activities.

This argument would seek to justify evening law schools by comparing them with poor day schools. It secured no indorsement from the Carnegie bulletin, *Training for the Public Profession of the Law*. This volume, although revealing quite unexpected sympathy with evening law schools, stated the fairly obvious fact that a student who is devoting part of his time and energies to the task of supporting himself cannot give as much time to his studies as one who is not, and that therefore the work of an evening law school year by year must, of course, be quantitatively inferior to that of a good day law school. It was also pointed out that a similar, though less marked, inferiority exists in the case of schools that schedule their classroom sessions during the late afternoon or at other irregular hours of the day, and that the essential distinction is accordingly not between "night" and "day," but between "part-time" and "full-time" law schools. These two truths and this not very happy terminology are now generally accepted by all factions in legal education.

A second attitude is that of condemnation. For the reason indicated above, and for other reasons, legal instruction conducted during evening hours is regarded, from this point of view, as so irredeemably inferior that it should be discountenanced in one or all of the following ways: Directly, through changes in the bar admission requirements, or through exclusion of institutions offering such work from educational associations; or, indirectly, through insistence upon increased entrance requirements

calculated greatly to reduce the number of possible students. It is an expression of this attitude, rather than merely a desire to secure a homogeneous organization, that has led certain regional standardizing associations to refuse membership to colleges or universities that conduct evening law work. The same motive was responsible for the adoption by the Association of American Law Schools of two now obsolete resolutions:

"Whereas, the maintenance of regular courses of instruction in law at night, parallel to courses in the day, tends inevitably to lower educational standards:

"Be it resolved, that the policy of the association shall be not to admit to membership hereafter any law school pursuing this course. (1912).

"Hereafter no law schools shall be admitted except upon the condition that neither they nor the universities with which they are connected shall hereafter conduct night classes in law for students preparing for the bar. (1919.)"

The third attitude, tolerance of evening or part-time law work as a necessary evil, is not sharply distinguished from the second. It is manifested in proportion as those who condemn this type of work lose some of their original crusading zeal in the face of the opposition they encounter.

The difficulties that beset those who seek actively to discourage part-time instruction have recently been appreciably augmented by the promulgation of an educational doctrine that denies their fundamental assumptions. According to this doctrine, there are sound social and political reasons, entirely apart from humanitarian or "sentimental" considerations, so called, why part-time preparation for the law should be positively encouraged. A reasoned argument to this effect appeared simultaneously in 1921 in the Carnegie bulletin, *Training for the Public Profession of the Law*, and in the Root committee report which served as the basis for the current standardizing movement. As formulated in this latter document, the argument runs as follows:

"If the analogy between the medical and legal professions were perfect, we should recommend that a three years' full-time course should be required, just as the American Medical Association has recommended a four years' requirement for intending physicians. But the analogy is not perfect.

"In the profession of medicine it is necessary to consider only one question with respect to technical education: How can men best be educated to be highly skilled physicians? Nothing need be considered unless it relates to the technical efficiency of the graduate.

"With us, however, the situation is different. The law is a public profession by which, more than by any other profession, the economic life and the government of the country are moulded. The proportion of lawyers in legislative bodies greatly exceeds the proportion of lawyers in the whole population. In executive office they are more numerous than are the followers of any other profession or occupation. Of course, all men in judicial office are lawyers. And last, but of great importance, is the influence of lawyers as practicing attorneys in helping to shape the course of judicial decisions and to draft statutory and constitutional provisions which vitally affect the law.

"The principle of opportunity for all applies peculiarly to admission to the legal profession. The physicians may properly exclude all who do not measure up to the strictest requirements of a technical standard. If this results in practically confining the right to practice medicine to men in comfortable circumstances, the public will not complain, for the public must at all costs have highly skilled physicians. But to confine the right to practice law to one economic group would be to deny to other economic groups their just participation in the making and declaring of law. Such a restriction would properly be resented by the public.

"It follows that opportunities must be given to those who are obliged to support themselves during their legal studies. If a man has completed two years, or, better still, four years, of a college course, he will do best if he attends a law school which commands substantially all of his working time. But if he has come to the point where he finds it necessary to support himself, and perhaps his family, he should not be denied admission to the public profession of the law. For such a man the afternoon or evening school is the only resource.

"But in recognizing the necessity for afternoon and evening schools we do not recognize the propriety of permitting such schools to operate with low educational standards. We should not license a badly educated man to practice law simply because he has been

too poor to get a good education. On the contrary, the democratic necessity for afternoon and evening schools compels a lifting of these schools to the highest standards which they can be expected to reach."

This reasoning underlies what has been referred to above as the last of the four attitudes which have been adopted in regard to evening or part-time law schools. On this basis was erected the committee's recommendation that part-time law schools should be made to conform to the orthodox type, by requiring their students to possess identical entrance qualifications and to pursue a longer course, "equivalent in the number of working hours." Agreement or disagreement as to the merits of this recommendation must not, however, be confused with agreement or disagreement as to the value of the educational doctrine or political philosophy upon which it ostensibly rests. On the one hand, the committee's concrete recommendations have been supported by many who have not been convinced by its line of reasoning. Many motives contributed to secure favorable action in the American Bar Association, in the Conference of Bar Association Delegates, and in the Association of American Law Schools. Some members of these organizations were simply overawed by the individual distinction of the committee; some saw no incongruity between these proposals and their own unchanged convictions in regard to the inherent evil of part-time legal instruction. On the other hand, among those who sincerely accepted the doctrine of the social value and the educational perfectibility of part-time law schools there have been some who from the beginning have expressed doubt whether the particular measures recommended by the committee are really measures of perfection.

Their doubts are grounded in the following considerations: The great majority of high-school graduates who are not able to attend a full-time law school are obliged to support themselves, not merely while they are securing their

strictly professional training, but also during their preliminary college years. It is somewhat open to question whether, if such students were to attempt to offset the time and energy devoted to earning their livelihood by taking a course of preparation, both academic and legal, twice as long as that prescribed for their more fortunate brethren, they would secure equivalent educational results. It is quite certain that except in rare instances, or under peculiar local conditions, a part-time course that is any shorter than this would not suffice. The typical student in such a course would certainly not have the opportunity to devote to his studies, both inside and outside the classroom, as much time as the student in a good orthodox institution commands. Yet it is so obviously impracticable to expect self-supporting students to devote 10 years to their professional preparation after leaving the high school that the Association of American Law Schools and the Council on Legal Education have united in recognizing a much briefer period as "equivalent in the number of working hours." The concession means that such schools, so long as they profess to cover the same field as good full-time law schools, are simply crystallized, as it were, on an inferior level. Educational reformers who deprecate all part-time work may balk at the pedagogical mathematics, but they will not dispute this conclusion.

To practical minds the extent to which an innovation falls short of perfection is of less importance than the extent to which it is an improvement upon what existed before. From this point of view the policy of condoning and covering up an assured inferiority in part-time education might be justified if it clearly conduced to the development of a type of institution superior to the common run of evening law schools to-day. Part-time or mixed schools that comply with the requirements of the American Bar Association, whatever their limitations, should at least be superior to these get-wise-quick organizations.

There is little present indication, how-

ever, that these will be replaced by representatives of the new "orthodox" type as the result either of altered bar admission requirements or of the moral pressure exerted by standardizing agencies. Only two States (Kansas and Ohio) have attempted to regulate part-time law schools in anything like the manner recommended. The few other states that require a preliminary education of two college years (always subject to the demoralizing "equivalent") do not require four years of study in an evening law school. The few other states which insist upon applicants remaining in an evening law school this long do not demand two years of college. The moral pressure of the standardizing agencies is the only influence at work. This has resulted in increasing the number of part-time or mixed law schools which comply, at least nominally, with the new standard requirements of preliminary education and length of course from one institution in the year when these standards were adopted, 1921-22, to 13 in the year 1925-26. Application of the other two standards affecting the library and the faculty, has reduced to 6 the number of such schools that in the autumn of 1925 were officially indorsed either by the Association of American Law Schools or by the Council on Legal Education. Even this small increase was to only a slight extent at the expense of an inferior type of education. During the same four years the number of part-time or mixed schools which do not even pretend to comply with the time standards has decreased indeed, but only from 80 to 78. In several cases where admission requirements have been so strengthened as to exclude a considerable number of applicants these have been promptly taken care of by the organization of a new school in the same city.

The total number of part-time and mixed schools (excluding, for convenience of computation, those offering a law course of less than three years), and the attendance at these schools, have varied recently as follows: .

Part-Time and Mixed Law Schools Offering a Law Course of at Least Three Years.

[Compared with Other Types of Law School]

Schools	1909-10.		1921-22.		1925-26.		1909-10.		1921-22.		1924 (Nov.).	
	Number of Schools.	Per cent. of Total.	Number of Schools.	Per cent. of Total.	Number of Schools.	Per cent. of Total.	Number of Students.	Per cent. of Total.	Number of Students.	Per cent. of Total.	Number of Students.	Per cent. of Total.
Part-time.....	32	26	62	41	67	40	4,787	25	11,702	37	14,402	35
Mixed.....	9	7	12	8	17	10	1,963	10	7,682	22	11,162	27
	41	33	74	49	84	50	6,750	35	18,784	59	25,564	62
Other.....	33	67	76	51	83	50	12,678	65	13,269	41	15,318	38
Total.....	124	100	150	100	167	100	19,428	100	32,053	100	40,882	100

In interpreting these figures showing a progressive increase, both actual and proportionate, in part-time or mixed instruction, it should be borne in mind not only that the figures for "other" schools include those offering a two-year degree course during evening or late afternoon hours, but also that professional law courses not leading to a professional degree do not appear anywhere in the table. In the autumn of 1925 seven part-time short-course degree schools and at least nine evening schools which did not as yet confer the degree were in active operation.

The Influence of Part-Time Instruction Upon the Organization of the Legal Profession.

Whether or not one more or less standardized type of part-time law school will eventually drive all others from the field, the present régime of competition between part-time and full-time institutions, as recruiting agencies for the legal profession, has many unfortunate consequences. The most obvious are (1) the flooding of the bar by students whose training must in the nature of things be inferior to the none too adequate preparation provided even by the best of the orthodox full-time schools and (2) the hesitancy on the part of some of these schools to raise their present standards, lest the principal effect of such action should be to drive students away from themselves into inferior institutions. Although it is too soon yet to profit by the full lesson of experience in this respect,

there is already some evidence that the current standardizing movement is producing this precise result.

There are several reasons why this situation does not excite more apprehension than it does. One is a distinct tendency on the part of well-trained lawyers—a tendency probably grounded in the very merits of their training and subsequent professional career—to take life and its evils unemotionally. Another explanation is that, while this element has been attending chiefly to its own business, numerous graduates of part-time law schools have become established in positions of influence in the profession, on the bench, and in legislative halls. Some of these gentlemen have actually remedied the defects of their early training. Doubtless all of them think that they have done so. With that loyalty to their own past that most of us possess, they close their eyes to any changes that may have occurred in the law or in the conditions of legal practice since they prepared themselves for the bar. Modestly disclaiming any exceptional force or ability in their own characters, they take the position that a course of preparation which was good enough for them ought to be good enough for anybody. They are particularly apt to oppose reforms which they suspect, often with some justice, are dictated by a fundamental lack of sympathy with part-time education.

Perhaps the most important influence, however, that is at work perpetuating an inherently indefensible system is a naïve faith in the efficacy of final bar examina-

tions to stem the torrent. Lawyers of every description, and to an even greater extent the public at large, conceive of the flood of ill-trained applicants as breaking, so to speak, at the gates of the bar. These gates are manned by examiners who are supposed to have power both to exclude untrained applicants from the profession, and in so doing to put an end to any type of preparation whose products do not measure up to requisite standards. Even the bar examiners themselves sometimes seem to believe that the only real evil in the present situation lies in the fact that they are obliged to read too many hopelessly bad examination papers.

As a matter of fact, exclusion of the hopelessly incompetent is all that can be accomplished under the present system. Any attempt to subject applicants to really rigorous bar-examination tests falls afoul of the different methods of preparation that are necessarily pursued in the two types of law schools. The full-time schools usually avail themselves of the opportunity they enjoy to instruct their students by the valuable, but time-taking, Langdell case method. The part-time schools, because of the relatively small amount of time that their students can spare for study outside the classroom, can use the method, if at all, only in a form so modified as to rob it of much of the effectiveness which it possesses when pursued under appropriate conditions. Such schools are apt to attempt to make up for their deficiencies in this respect by greater emphasis upon what their rivals slightly refer to as detailed "information" with regard to local law and practice. Both types of schools exert pressure upon the bar examiners—pressure that must be regarded as justified so long as the law permits both types to exist and to attract students. So evenly balanced is this institutional pressure that—as experience has shown repeatedly—examiners cannot prudently discriminate, in their questions or in their system of marking, against either type. Yet it ought to be obvious that a bar examination that is not keyed to a particular course of study or in-

struction simply cannot be made an effective test of competency to practice law. No one has expressed this truth better than the inventor of the case method, Christopher Langdell. Nearly 50 years ago, combating an early disposition on the part of Suffolk county bar examiners to reject his Harvard law graduates, Langdell attacked the entire system of examination, "without reference to any particular course of study or instruction," in a passage concluding with the following words:

"It is impossible that such examinations should be at once rigorous and just. They must admit the undeserving or reject the deserving, and in the long run they will be sure to do the former."

In a word, so far from our being able to rely upon bar examiners to insure that the products of our various types of legal instruction measure up to a common standard of competency, a powerful influence is exerted in the reverse direction. The fact that several dissimilar types of law schools compete with one another as agencies for recruiting the legal profession, possesses, in addition to the unfortunate consequences which lie upon the surface, this additional one: Institutional rivalry demoralizes the bar examinations. It diminishes the likelihood that even for any particular type will there be a desirable safeguard on the industry of the students and the informed conscientiousness of their teachers.

It is for this reason that the problem of the part-time law school is not merely perplexing in itself, but is of fundamental importance in its relation to the future development of legal education in any sort of school. The part-time institution, so long as it is constrained to be nothing more than a poor copy of the full-time model, is a much more subversive influence than the law office. This latter has no powerful friends to fight its battles for it. Bar examiners can therefore hold its products up to any standard, even to an inappropriate one. In sparsely populated sections of the country this antiquated avenue of preparation can still be justified. In urban

centers law offices already develop into evening law schools speedily enough. It is a question whether it is worth while to expedite a natural transformation by the adoption of a bar admission rule definitely refusing credit for time spent in an office.

The first step toward a proper solution of the problem would seem to be to abandon the pretense that evening law schools and good full-time schools can be made mutually equivalent, either in the amount of time that students devote to their education, or in the precise educational benefits they derive. It would be much better to formulate, as an objective, that of making part-time schools as good in their way as the best full-time schools now are in theirs. The graduate of a part-time school cannot be expected to have received as large an amount of training, measured simply by its aggregate quantity, as the graduate of an equally good full-time institution. This does not mean, however, that the training may not have been as profitable, in its different way, nor even that the curriculum may not include valuable elements which the other educational type, in the pursuit of its objectives, is obliged to exclude. The authorities of our leading orthodox law schools, who are doing so much to improve our law, already realize how seriously its present condition strains their teaching facilities. Until the law that has to be taught is simpler than for many years even they can make it, they know how far they must continue to fall short of turning out adequately trained general practitioners. To contend, under these circumstances, that part-time law schools should be tolerated only to the extent that they are cheapened editions of their own schools, is to ascribe extraordinary virtue to a diluted case method. It would be wiser to co-operate with the many earnest graduates of all types of law schools who are now teaching law during the evening and late afternoon, in an endeavor to answer the following question: What methods and what curriculum are actually best adapted to part-time conditions?

An inquiry prosecuted in this spirit

should go far to produce the type of part-time law school that the situation demands—not an institution which everybody, even its own faculty and student body, realizes is a makeshift, an inferior imitation of a really good school, but something that stands pre-eminent in its own educational field, at once gives its own students benefits that they could secure nowhere else, and frees the full-time law school from some of the responsibilities under which this type of institution now staggers. An attitude of this sort would probably find expression among other developments in an alternative system of bar-admission examinations. One set of questions, intended for full-time law students, could not be answered satisfactorily by any one else; another set of questions would be of such a nature that only well-prepared applicants from part-time schools could pass the examination. In the course of years this might or might not result in a clearly defined division of the legal profession along functional lines. Should this development occur, it would mean not merely that the profession had split under economic pressure into two fairly distinct divisions, recruited respectively by the activities of full-time and of part-time schools. This it has already begun to do to-day. It would mean that, instead of attempting by a process of artificial standardization to arrest what philosophers have long recognized to be a mark of social progress—a tendency to proceed from uniformity to diversity—legal reformers had regularized this tendency and turned it to good account. It would not mean that the legal profession was weakened because of not being formally united to the extent that physicians and surgeons, general medical practitioners and consulting specialists and research workers, are united in a single profession to-day. The practice of the law includes a much greater variety of occupations than those in which graduates of medical schools engage. American lawyers find a closer analogy, not in the relatively restricted medical profession, but in a broadly inclusive “health

service," which comprises practitioners of all the many healing arts. If the argument by analogy is to be invoked, it is as unreasonable to standardize the education and the professional affiliations of every lawyer in one and the same mold as it would be to impose identical educational and licensing requirements upon physicians, dentists, health officers, pharmacists, nurses, and veterinary surgeons.

As a matter of fact, all analogies limp. The analogy of health service is defective in so far as it suggests that graduates of part-time law schools are likely to remain stratified on a plane of lower financial or political rewards.¹ Similarly, the existence in France and England of two or more virtually exclusive professional groups of practicing lawyers is evidence merely that division of the legal profession is possible; it is not evidence that the dividing lines in this country will ever run as they do there. The problem of the American lawyer is un-

like that of lawyers elsewhere or of other professions at home. Illustrations drawn from other fields are stimulating, but in the past there has perhaps been too much superficial reliance upon outside models and too little probing of legal fictions and conventional assumptions. No one—least of all the present writer—can forecast with any confidence how American lawyers will be educated and organized in the years to come. But it is at least fairly clear that the form and effectiveness of the professional organization will be vitally influenced by the existence of differing types of educational preparation, and that part-time law schools will continue to abound and to turn out large numbers of lawyers who differ markedly from the product of orthodox full-time schools. This conclusion can be rationally derived from our fundamental political principles, and such experience as we have tends to confirm the validity of the reasoning.

History, Systems, and Functions of Pleading

By CHARLES E. CLARK

Professor of Law, Yale University

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WHAT IS PLEADING?

BEFORE any dispute can be adjusted or decided it is necessary to ascertain the actual points at issue between the disputants. Conceivably this may be done in several ways. Perhaps the simplest is a process of direct questioning of the parties by the arbitrator or judge. Another method is the exchange of written statements in advance of a direct hearing of the parties. Under our Anglo-American system of legal procedure we are committed by tradition and history, by present practice and, probably, by gener-

al inclination, except in exceptional cases, to the latter method.¹ Our system calls for the development of issues by the parties themselves in formal manner in advance of the actual trial. This is accomplished by requiring the serving on the opposing party or the filing in court alternately by the parties of *pleadings*—

¹ Gibson, *The Philosophy of Pleading*, 2 Yale L. J. 181, citing Story, *Equity Pleading*, § 1; Stephen, *Pleading*, *1, *135-136, *491-494; Lloyd, *Pleading*, 71 U. of Pa. L. R. 26. For an extreme statement see Hughes, 44 Chicago Legal News 125, 134; for criticism of this point of view, see Roscoe Pound, 36 A. B. A. Rep. 480-482 (1911), also references in notes 12, 13, *infra*.

written instruments wherein are set forth the statements and contentions of each as to the points and facts in dispute. These *pleadings* are to be distinguished from the lawyer's oral argument or "*plea*" made to the court or jury at the trial of the case.² Originally under the common-law system the pleadings were oral, but for several centuries they have been written and have become technical legal documents, carefully framed by the attorneys of the parties.³ The content of these documents and the manner in which they are to be employed in the litigation have become the subject of rules in general of a highly refined nature. *Pleading* is the name given to the legal science which deals with these rules.

The *pleadings* therefore serve the primary purpose of acquainting the court and the parties with the facts in dispute. They should in so doing point out the actual issues to be settled.⁴ Several other purposes may also be served by the pleadings. Thus a committee of the American Bar Association classified the main purposes to be achieved by the pleadings as follows: (1) To serve as a formal basis for the judgment to be entered; (2) to separate issues of fact from questions of law; (3) to give the litigants the advantage of the plea of *res adjudicata* if again molested; (4) to no-

tify the parties of the claims, defenses and cross-demands of their adversaries.⁵ As hereinafter pointed out in the discussion of "Functions of Pleading," the purpose especially emphasized has varied from time to time. Thus in common-law pleading especial emphasis was placed upon the *issue-formulating* function of pleading; under the earlier code pleading like emphasis was placed upon *stating the material, ultimate facts* in the pleadings; while at the present time the emphasis seems to have shifted to the *notice* function of pleading.⁶

It will be observed that *pleading* is therefore a branch of the law of *remedies* existing for the enforcement of the substantive jural relations of the parties. The difference between *adjective* or procedural law and *substantive* law may easily be overemphasized since the line between them is shadowy at best. It is, however, desirable that the purely secondary character of procedural rules should be borne in mind throughout the consideration of the subject. These rules exist not to be vindicated for themselves alone but merely to aid in the efficient application of the substantive law.

The system of pleading developed in the English courts of common law after the Norman Conquest and applied in legal actions in this country until the pleading reforms of the middle and the latter part of the nineteenth century is commonly called *common-law pleading*. The system of pleading developed in the English courts of chancery and likewise applied in the equity courts in this country is termed *equity pleading*. *Code pleading* is the term applied to the reformed system of pleading initiated by the New York Code of 1848 and now in force in some thirty American jurisdictions. It is this latter system which concerns us in this book. But since it developed from the former systems and in many respects continues various details

² In Phillips, *Code Pleading*, § 11, there are collected various definitions of pleadings, including the famous one of Blackstone—"the mutual alterations between the plaintiff and the defendant." 2 Black, Comm. *288. See Ark. Dig. 1921, § 1183: "The pleadings are the written statements, by the parties, of the facts constituting their respective claims and defenses." C. C. P. Cal. 1923, § 420: "The formal allegations by the parties of their respective claims and defenses, for the judgment of the court." See, also, Colo. Code 1921, § 52; Comp. Stat. Idaho 1919, § 6683; Burns' Ann. Stat. Ind. 1914, § 340; Comp. Code Iowa 1919, § 7190; Rev. Stat. Kan. 1923, 60-701; Carroll's Code Ky. 1919, § 87; Rev. Code Mont. 1921, § 9125; R. L. Nev. 1912, § 2605; Ann. St. N. M. 1915, § 4101; Comp. Stat. Okl. 1921, § 262; Comp. L. Utah, 1917, § 6562; Comp. St. Wyo. 1920, § 5647; Rev. Stat. P. R. 1911, § 5083.

³ On the change from oral to written pleadings during the fifteenth and sixteenth centuries, see Holdsworth, *Hist. Eng. Law* (3d Ed.) 639-656; 2 *Select Essays in Anglo-American Legal History*, 614. That a judgment rendered on oral pleadings may still be valid, see Rood, 10 Mich. L. R. 384.

⁴ *Campbell v. Walker*, 1 Boyce (Del.) 580, 76 Atl. 475; *Quaker Metal Co. v. Standard Tank Car Co.* (Del.) 123 Atl. 131; *Smith v. Jacksonville Oil Mill Co.*, 21 Ga. App. 679, 94 S. E. 900; *Shipman, Common-Law Pleading* (3d Ed. by Ballantine) § 8-11; *Isaacs*, 16 Mich. L. R. 589.

⁵ 35 A. B. Rep. 614, 638, 639 (1910), prepared by Dean Roscoe Pound and approved by the committee, urging that the first function be abandoned, and that the notice function be emphasized. Cf. *Shipman*, op. cit. 9, 10, on other suggested functions of pleading.

⁶ *Infra*, p. —.

and parts of them, it is necessary to consider the antecedents of code pleading in the other systems. This is done briefly and in broad outline only.

All the pleading herein referred to is *civil pleading* or pleading in *civil actions*, as distinguished from *criminal procedure*, dealing with criminal actions, or actions by the state for the punishment of crimes. There is a certain amount of pleading in criminal proceedings, and this bears some general similarity to pleading in civil actions; but the distinctions are important and make separate treatment of that subject desirable.⁷

ROMAN CIVIL PROCEDURE.

It is usual to consider the history of civil procedure in ancient Rome as dividing into three periods. The first, that of the *legis actio* procedure, lasted through the early days of the Republic; the second, the period of the *formulary procedure*, covered the later days of the Republic and the early days of the Empire; and the third, that of the *libellary procedure*, comprised the latter days of the Empire.⁸

The Legis Actio Procedure.

The first period, as is usual in the history of procedure, was a period of extreme formalism. There were five forms of the *legis actio*, within the terms of one of which the plaintiff must compress his claim if he would secure judicial relief. The analogy to the forms of action under the English common-law system of pleading—hereinafter referred to—is striking, though a direct connection between the two is denied.⁹ There is also another analogy between the two systems, for in each the issue is formu-

lated in advance of the actual trial and such trial is had before those who have had nothing to do with forming the issue. At this stage of the Roman procedure, however, the issues were fixed and formal, arrived at before the magistrate (normally, the *prætor*) by repeating certain traditional terms. The magistrate, if the issue was properly made, then granted the right to proceed to trial. The actual trial was before a *iudex*, who was not a public officer, but a private person from a specially selected class.¹⁰ Under the common law the jury which tries the case likewise receives it with the issue already actually framed, but by the parties in their pleadings rather than by a public magistrate.

The Formulary Procedure.

The immutable oral formulæ of the *legis actio* became inadequate for the growing law. The necessary means of expansion were found outside this procedure. The *legis actio* was available only as between Roman citizens. But by 242 B. C. a special *prætor* had been appointed to deal with actions where one or both of the parties were aliens. In shaping his procedure the *prætor* naturally was guided by the practice which obtained as between citizens, and hence we find him formulating the issue and referring the decision of the issue to one or more private individuals, just as in the *legis actio* procedure. But with foreigners there was no *lex* governing as in the case of the *legis actio*, and hence the *prætor* drew up the issue to fit the case and this issue was then given by the plaintiff to the defendant and accepted by him.

Thus in the *legis actio* the issue was arrived at by means of an oral formula based on a popular statute and rigorously confined to a limited number of claims. In the formulary procedure it was made by means of a written formula capable of being adapted to the greatest variety of claims, drawn up by the magistrate and accepted by the parties. The latter naturally became the more popular; and by act of the *prætor urbanus*, followed

⁷ See texts on criminal procedure; e. g., that by W. L. Clark.

⁸ Sohm, *Institutes* (trans. by Ledlie, 3d Ed.) 224-301; Buckland, *Text-Book of Roman Law*, 599-667; Kocourek, *The Formula Procedure of Roman Law*, 8 Va. Law Rev. 337-355, 434, 444.

⁹ That the English formulary system is not of Roman origin, see 2 Pollock & Maitland, *Hist. Eng. Law* (2d Ed.) 567-569. For a contrary view, see John Randolph Tucker (1892) Va. State Bar Ass'n Rep. 35, 39. Cf. Stephen, *Pleading*, notes 6, 7. Apparently the modern tendency is to look for a greater influence on English law by the Roman law than had previously been thought to exist. Cf. G. E. Woodbine, 33 Yale L. J. 812, 813; 31 Yale L. J. 827.

¹⁰ For the selection of *iudices*, see Buckland, *op. cit.* 631.

by legislative enactment, it was made available to Roman citizens. This resulted in the triumph of the formulary procedure over the older form.¹¹

The influence of the formula thus permitted upon the development of both procedural and substantive law was very great. The prætor by his power over the formulation of the issue was able to and did reform and remake the substantive law. From the pleading standpoint the procedure is most interesting. We still have the *issue-making* stage of the trial, but the issue is made by a court officer and not by the parties themselves who are either ill-trained or are anxious to avoid disclosing any more of their case than they can help. The Roman system has been highly, almost extravagantly recommended by a modern writer as avoiding the chief defect of our own system of justice.¹² It has somewhat of an analogy under the present English system where causes are referred to masters in chancery for the framing of issues.¹³

The Later Libellary Procedure.

Under the Empire the imperial power limited the power of the prætor, and

took to itself the function of developing the law. The prætor as well as the iudex became simply a ministerial officer for carrying out the law, and the new procedure then developing followed the form of proceedings before the emperor. The two stages of the trial were abandoned and the entire proceeding was before a magistrate whose function it was to apply the law. By the middle of the fourth century the process of applying for a formula was given up, the parties submitting their claims to the magistrate without the formal making of an issue and with only a short statement, or libellus of the ground of suit.¹⁴ It is this system which was followed on the continent, where the Roman law was the basis of the later jurisprudence of the country, and it is this system in effect which is now in vogue in the continental countries. It also made its impress on ecclesiastical law and so to a certain extent on the equity practice in England.¹⁵ It therefore has probably had a more direct effect upon our modern systems than either of the earlier Roman systems.

MODERN CONTINENTAL CIVIL PROCEDURE.

Like the later Roman procedure, which formed a part of the civil law, the basis of continental jurisprudence, modern continental civil procedure places little emphasis upon written pleadings prior to the trial. The absence of the system of jury trials renders less important the definite and clear formulation of an issue in advance of trial. A considerable divergence in principle is apparent between the continental and the Anglo-Saxon systems. Continental jurists have devoted much attention to *procedural jurisprudence*, whereas our writers on procedure have tended to limit themselves simply to the practical details of their

¹¹ See citations, note 8, supra.

¹² Kocourek, 8 Va. Law Rev. 337, 338: "This method of administering justice was the most remarkable and the most successful that has ever been carried out on a large scale over an extended period in any civilized country"; "the chief defect of our own administration of civil justice . . . we think rests on this proposition; a disputed matter of fact or law or of both, cannot be resolved into simple, ultimate questions of the merits of a controversy by any system of procedure which leaves the formulation of these issues to the adversaries themselves." See, also, Kocourek, 5 Journ. Am. Jud. Soc. 101.

¹³ For description of the English practice, see Leaming, A Philadelphia Lawyer in the London Courts, c. 10, 5 Mass. L. Q. 250-253; Higgins, 7 Journ. Am. Jud. Soc. 204-206; Order 30, r. 1-8, Rules under Judicature Act, Annual Practice, 1924, 471-483 ("Summons for Directions"). A similar practice has been developed in New Jersey. Prac. Act, 1912, § 17; Rules of Supreme Court (1919), rules 61-65; Second Report of Jud. Comm. Mass. 1921, 110-113. Cf. Id. 107: "A century ago Jeremy Bentham made a suggestive classification of methods of procedure into 'epistolary' methods and 'confrontatory' methods, and he made caustic remarks about the epistolary kind. The comparison may be simply translated into the statement that one can generally find out more quickly about facts by talking directly to a man who knows about them than by conducting a long and cautious correspondence with him or with somebody representing him. This simple idea has been very gradually forcing its way into legislation and rules of court relative to procedure." See Report of Board of Statutory Consolidation (N. Y. 1915) 21, 205-207, note 29, infra.

¹⁴ See note 8, supra. Engelmann, Der Römische Civilprozess, §4. The formulary procedure was finally abrogated. Id. 80.

¹⁵ Langdell, Equity Pleading (2d Ed.) 1-6, 17-19, 42, 43; 2 Select Essays in Anglo-American History, 753-778. Cf. Engelmann, op. cit. §4, that the form given the libellary procedure by Justinian is of great importance, "for it became the basis for the further development of the law of procedure and resembles in essential points the law of procedure appearing in Germany to-day."

own systems. The researches of modern scholars, especially of Professor R. W. Millar, are now making the continental literature more available to us, and should lead to a greater development of this aspect of the subject.¹⁶ Perhaps the most important divergence so far as concerns our subject of *pleading* is that under the continental system the principle termed that of "*orality*" (oral allegations) is followed, while under our own since an early time the principle of *documentation*, or written pleadings, is followed. True the continental systems provide for certain written statements of the parties. In general the plaintiff is required to state the nature and grounds of his demand in connection with or in the summons, and in some systems, such as the German, he must set forth the names of the witnesses and the evidence they will give.¹⁷ Provision is usually made for a written answer by the defendant and a written reply by the plaintiff, but these ordinarily are optional with the parties. The real *pleadings* are the oral conclusions alleged in open court at the hearing of the case. These may be required to be put in writing later, but this is simply for purposes of record.¹⁸ Under such a system it is obvious that comparatively little importance is attached to the preceding *informatory* statements of the parties. This explains the comparative absence of decisions on questions of pleading on the continent.¹⁹

A comparison of the two systems with respect to certain other procedural prin-

ciples will further illustrate the point. Under both all the parties to the case must be given an opportunity to be heard (the principle of bilaterality of the hearing) and the case is presented by them, *party presentation* as distinguished from *judicial investigation*. But under the common law the parties, and not the judge, control the advance and prosecution of the suit (*i. e., party prosecution*) while in European countries the judge has much more to do with seeing to the ultimate disposition of the case (the principle of *judicial prosecution* applied at least to a modified extent). It is significant that modern English procedure tends to put much greater responsibility upon the judge in the prosecution of the suit. Even more striking is another difference. In common-law procedure, the two main stages of the suit—pleading and trial—were made entirely distinct and if a party did not act at the appointed stage, he lost his opportunity and was later precluded from doing what otherwise he might have done. (This is termed the principle of *stage-preclusion*.) On the other hand the continental countries tend towards almost complete procedural *freedom*. This latter is of course the modern tendency in both England and America, still somewhat restricted by the existence of jury trials. But the whole trend of the continental systems is to treat the ascertainment of the issues as part of the trial itself. The result is naturally to lessen the importance of pleading.²⁰

A comparative estimate of the two systems from the standpoints of efficiency and of accomplishment is highly desirable. On the surface it is apparent that the continental system has the great advantage over our own of avoiding in the main all the extensive litigation over pleading and procedural points which is such a reproach to our system of justice. On the other hand there should be a considerable advantage in having the issues disclosed before trial. With the differences so made clear, the chances of the parties themselves settling their disputes

¹⁶ Professor Millar is editing a volume for the Continental Legal History Series to be entitled the "History of Continental Civil Procedure," which will contain a translation of Engelmann, *Der Civilprozess*, and other continental materials. See, also, Millar, *The Formative Principles of Civil Procedure*, 18 Ill. Law Rev. 1, 94, 150, reprinted in pamphlet form.

¹⁷ Millar, *The Formative Principles of Civil Procedure*, 47-59. Cf. K. von Lewenski, *Courts & Procedure in Germany*, 5 Ill. Law Rev. 193; S. E. Baldwin, *A German Law Suit*, 19 Yale L. J. 69; 8 Mich. L. R. 30. See, also, Millar, *The Recent Reforms in German Civil Procedure*, 10 A. B. A. Journ. 703-709.

¹⁸ The statements in the text apply especially to France and Germany, and to the more usual procedure in Italy. In Spain the allegations are written. See Millar, *op. cit.* 49-56.

¹⁹ E. M. Borchard, *Some Lessons from the Civil Law*, 64 U. of Pa. L. R. 570, 578. Cf. S. S. Clark, 14 Yale L. J. 263.

²⁰ Millar, *op. cit.* 4-47.

should be increased, and the actual trial should be much shortened and simplified.²¹ An inquiry into the comparative merits of the systems involving perhaps such questions as the length of litigation, the length of the actual trials, the cases settled without hearing, the expense, the current criticism of the courts or lack thereof, and so on, might well be undertaken by one of the bodies interested in the advancement of legal science. For the present we may note a general tendency in our law, somewhat comparable to the development of Roman civil procedure, toward the continental practice of not stressing the pleading stage of the trial. So long, however, as we have the jury system of trial, with its natural emphasis upon the previous formulation of the issues, it is unlikely that we shall come fully and completely to the continental practice.

COMMON-LAW PLEADING.

The common-law system of pleading came into vogue in England after the Norman Conquest. It developed as a more or less gradual process; the beginnings of most of the common-law actions cannot be stated with absolute precision.²² By the time of Edward I it had become a science to be formulated and cultivated.²³ From that time until the time of the reforms of the nineteenth century the "science of special pleading" was of the utmost importance and among its devotees are included the great legal names of all but the most recent English law.²⁴

Since the facts were passed upon by a body of laymen, not by a trained judge, it was felt necessary to ascertain clearly the points of dispute between the parties

before the trial was begun. The institution of trial by jury, which meant so much to our ancestors in their efforts to secure a free and impartial justice, is therefore responsible for this striking characteristic of common-law pleading—the development of an issue.²⁵ Unlike the Roman formulary system the issue was to be made by the parties themselves, not by a judicial officer of the government. Hence under the original idea of common-law pleading each party must in turn answer the previous pleading of his adversary by either denying, or affirming and adding new matter (*confessing and avoiding*) until there is ultimately reached a stage where one side has affirmed and the other has denied a single material point in the case. This was the issue, and except as modified by later rules, provision was made for only one such issue.²⁶ It was thought to be the glory of the system that the parties themselves would thus in advance of the trial single out and disclose the one material point as to which they were in dispute, thus eliminating all extraneous or agreed matter. The highly technical rules so characteristic of the system of common-law pleading were in the main designed either to aid or to force the parties in this manner to formulate the issue.²⁷

The other great characteristic feature of common-law pleading—the forms of action—has a close connection with the triumph of the king's courts over the local courts, a history too long to be traced in detail here.²⁸ Whenever a litigant desired to sue in the king's court, he was required to procure a writ from the king through the office of the chancellor; that is, from the clerks in chancery. The

²¹ Stephen, Pleading, *491-*499; note 1, *supra*; notes 24, 27, *infra*.

²² Woodbine, *The Origins of the Actions of Trespass*, 33 *Yale L. J.* 799; 34 *Yale L. J.* 343. Cf. Ames, *Lectures in Legal History*, 47 et seq. (the lectures on the various forms of action).

²³ Stephen, Pleading, *135.

²⁴ Special pleading refers to pleading by specific as opposed to general allegations. Hepburn, *The Development of Code Pleading*, 65, 66; Stephen, Pleading, *169, note (a). "Special pleading contains the quintessence of the law, and no man ever mastered it, who was not by that means made a profound lawyer." Story, J., quoted in Shipman, *Common-Law Pleading* (3d Ed. by Ballantine) 4.

²⁵ Holsworth, *op. cit.* note 3, *supra*.

²⁶ Stephen, Pleading (Williston's Ed.) *136-*149, *491-*499.

²⁷ Among the many encomiums on the system may be cited that of Stephen, *op. cit.* note 26, *supra*; of Mr. Justice Grier, *McFaul v. Ramsey*, 20 *How.* 525, 15 *L. Ed.* 1010, and of Andrews, *American Law* (2d Ed.) § 635. See, also, 10 *Harv. L. R.* 238, 239. For other references, see Shipman, *op. cit.* 4, 5; Ballantine, 1 *Ill. L. Bul.* 1.

²⁸ Adams, *The Origin of the English Courts of Common Law*, 30 *Yale L. J.* 798-813, and authorities there cited; Adams, *Origin of the English Constitution* (Ed. 1920) c. III, and note. Cf. Perry, *Common-Law Pleading*, 28-37; Maitland, *Equity and the Forms of Action*, 295 et seq.

writ was the king's command directing the sheriff to summon the defendant before one of the king's courts. It served the further important purpose of giving jurisdiction to the court named in it.²⁹ The process of issuing writs came to be strictly limited to cases where precedents existed, so that a litigant had to bring his claim within the limits set by some former precedent. Many writs were developed in reference to land but because of the cumbersome nature of the procedure gradually fell into disuse. Actions for money damages—called personal actions—were the actions in general use under this system of pleading. At its later development, due to the restrictions on the issuance of new writs, these were limited to the famous forms of action—trespass, trespass on the case, trover, replevin and detinue in tort; and covenant, debt, account and assumpsit in contract. The action of ejectment came to be practically a substitute for all the actions concerning land.³⁰

The practice of the clerks in chancery of *forming* new writs had ceased by the middle of the thirteenth century. By the Statute of Westminster, 1285, the clerks were directed that, where in a like case (*consimili casu*) falling under the same right and requiring a like remedy to one where a writ was found, there was no writ, they should frame one, or refer the case to Parliament for the making of one. This was designed to add some flexibility to a system which had already become rigid. According to the current belief (which, perhaps, is not accurate), it did lead to the formation of the writ and the consequent development of the action of trespass on the case, from which trover and assumpsit later developed. But it did not bring about a general issuance of new writs. Hence the common-law system was limited in the extent of the relief which it could grant and the manner of granting it to the ar-

bitrary units comprising the forms of action. Coupled with this were the refinements enforced to induce the production of an issue, resulting in a highly technical system which afforded none too complete relief.³¹ The rise of the courts of equity served, however, to postpone the necessity of reform for some time.

EQUITY PLEADING.

The equity courts developed from the exercise by the king of his royal prerogative through his chancellor to do justice where the courts failed to do so. Since the first chancellors were churchmen, they followed the ecclesiastical law. In this way equity pleading goes back through the canon law to the later period of the Roman law, although the connection is not so direct as to have been completely controlling.³² But we do find a general similarity between the English equity system and the Roman libellary procedure in the absence of a separate body for the trial of facts and hence the absence of emphasis upon the formation of an issue. Likewise there were no forms of action in equity; the complainant stated his case at large in the form of a petition to the chancellor. The pleadings in equity were, however, quite detailed, since, being sworn to, they gave the facts upon which the case was decided. No formal trial with witnesses was ordinarily had, at least until modern times. The equity procedure was much more flexible in many respects, particularly as to joinder of parties and of actions, and as to the form and kind of judgment which might be rendered.³³

The later reform of pleading by the

²⁹ Hepburn, *The Development of Code Pleading*, c. II; 2 *Select Essays*, 642; Odgers, *A Century of Law Reform*, 203; Lord Bowen, 1 *Select Essays*, 518. The researches of my colleague, Professor George E. Woodbine (not yet published), throw doubt upon the traditional view of the origin of trespass on the case.

³¹ Langdell, *Equity Pleading*, note 15, *supra*; Kelgwin, *Cases in Equity Pleading* (1924) 10-19. Cf. Adams, *Origin of English Equity*, 16 *Col. L. R.* 86; Kittle, 21 *W. Va. L. Q.* 21; Maitland, *Equity and the Forms of Action*, 1 ff.

³² *Id.* The substitution of testimony taken in open court for that by deposition was made in the Federal equity courts only by the rules of 1912 (Rule 46). See 36 *A. B. A. Rep.* 456-459, 48 *A. B. A. Rep.* 326. Cf. *Dickinson v. Todd*, 172 *Mass.* 123, 51 *N. E.* 976; *Cook's Cas. Eq.* 188.

³⁰ Hence the name given it of original or originating writ. See Stephen, *Pleading*, *5-*8, *11-*VII; Shipman, *op. cit.* 57-61. Cf. Maitland, *History of the Register of Original Writs*, 3 *Harv. L. R.* 97, 169; 2 *Select Essays in Anglo-American Legal History*, 549.

³¹ See authorities referred to in note 29, *supra*; Shipman, *op. cit.* 62-68.

codes owed much to equity pleading. When it was proposed to combine the common-law and equity systems into a single blended system, it was to equity that the codifiers went for most of their modifications of the common law. This appears in such matters as the statement of facts, which in principle followed the equity procedure though without the same detail, the joinder of parties, which was taken directly from equity, and the split judgments of the code.³⁴ The equity procedure itself was designed as a flexible system to meet varying claims and hence was of a kind to appeal to those who were attempting to change the harshness and inflexibility of the common law. But equity jurisprudence too had tended to become rigid; the procedure seems to have aggravated the delays apparently natural to all systems of law, and hence it also came to the point where it was not fulfilling the needs of a growing and developing system of law. The division of the remedial justice into two systems with two courts entirely distinct from each other intensified the defects inherent in each system. A litigant not infrequently would have to be sent out of court to bring his action in another tribunal simply because he had chosen the wrong one. Since the rules governing the choice of tribunal were not always clear and easy of application, the harm to innocent seekers for justice was great.³⁵

THE REFORM OF PLEADING.

In 1765 William Blackstone published his famous Commentaries on the Law of England in which he apotheosized the then existing law of his country. Not the least interesting and important outcome of that epoch-making work—one not expected and hardly to be appreciated by that great exponent and defender of things as they were—was in the reaction to it of a young pupil of Blackstone, Jeremy Bentham, who heard the lectures

later published as the Commentaries and was affected by the system there described in quite the opposite way from the lecturer himself.³⁶ Bentham then and there began his long continued attack on abuses in the administration of justice. His work continued for half a century and very slowly he and his followers set in motion a movement for law reform which had the most important results in both England and America.³⁷

In England beginning in 1828 Parliament appointed a series of commissions to examine the law of procedure and other subjects and to report changes to be enacted. The first tangible reform was the "Hilary Rules," the "New Rules" of 1834, passed at Hilary term and framed by the judges in pursuance of the statute of 3 & 4 Wm. IV, c. 24. The especial accomplishment of these rules was to limit the scope of the general issue in the formed actions and to force the defendant to set up affirmatively all matters other than a denial of the breach of duty or wrongful act of the defendant.³⁸

In 1848 came the first of the American reforms of pleading with the adoption of the New York Code. Undoubtedly this further stimulated the reform movement in England.³⁹ The next step was the Common-Law Procedure Act, passed by Parliament in 1852, followed by a series of statutes reforming the system of pleading at law and another series reforming the pleadings in equity. These made important changes. Thus the Common-Law Procedure Act provided for joinder of causes of action even though not of the same form of ac-

³⁴ His first book, *Fragment on Government* (1776), was a direct attack upon Blackstone's Commentaries. See the preface thereto (Ed. Montague) 94.

³⁵ Hepburn, *The Development of Code Pleading*, 71-74; 1 Dillon, *Laws and Jurisprudence*, 316; Dillon, 1 *Select Essays*, 492, quoting Sir Henry Maine: "I do not know a single law reform effected since Bentham's day which cannot be traced to his influence."

³⁶ Stephen, *Pleading* (Williston's Ed.) *173-189. The use of several counts or pleas for the same cause or defense was also prohibited. Id. *LXXXVII-LXXXVI. See, also, Shipman, *Common-Law Pleading* (3d Ed. by Ballantine) 312, 336.

³⁷ S. E. Baldwin, *Pleading in Civil Actions, Two Centuries Growth of American Law*, 313, 317; Hepburn, *The Development of Code Pleading*, 176. But see H. U. Sims, *The Problem of Reforming Procedure*, 21 *Yale L. J.* 215.

³⁸ See First Report of the Commissioners on Practice and Pleadings (N. Y. 1848) 124, 145, 141, 142, 147; Clark, *The Code Cause of Action*, 33 *Yale L. J.* 817.

³⁹ A. Birrell in *A Century of Law Reform*, 176-202; W. B. Odgers, Id. 203-240; First Report of N. Y. Commissioners (supra, note 34) 67-88, 137-147; Lord Bowen, 1 *Select Essays*, 516.

tion, so breaking down the distinctions between the old forms of action. But these reforms were not drastic enough to suit the demand. In 1873 was passed the Supreme Court of Judicature Act which consolidated the great English courts at Westminster into one Supreme Court of Judicature and established a uniform law of procedure therefor.⁴⁰ There was thus obtained the fusion of law and equity provided for earlier by the New York Code of Civil Procedure and the American codes. The procedure is in general similar to the American code pleading, but in many respects it has gone beyond the American system. It has furnished the model for some of the most advanced provisions in the most modern American practice acts.⁴¹ It is noteworthy in that the act itself does not regulate the details of practice but leaves these to the court, which makes and changes rules of practice. This has resulted in a highly flexible system, subject constantly to the revision and improvement which circumstances and experience show to be necessary. It is one of the most generally commended features of the English procedure.⁴²

The English reform influenced the Connecticut Code of 1879, one of the most successful of the American codes,⁴³ but until comparatively recent times it has not had the attention it deserves from American lawyers. The present tendency seems to be, however, to look to that system in the main for the changes now to be made in our pleading, so that a greater familiarity with English rules and precedents may be demanded in the future of the American lawyer. Opinions differ as to the complete suc-

cess of the English system.⁴⁴ It must be admitted that, as the number of judicial rulings show, the English procedure is not entirely simplified.⁴⁵ But many of the provisions seem well designed to secure practical convenience of trial and are worthy of emulation in our system, especially in their manner of expression which is not that of arbitrary nomenclature and definition so much as of direction for the guidance of the trial court.⁴⁶

THE RISE OF CODE PLEADING.

The New York Code of 1848.

In New York the movement for reform, which had been making some real strides in England, became especially strong just prior to the middle of the nineteenth century. By a new constitution, adopted in that state in 1846, the court of chancery was abolished, and there was created in its place a court having general jurisdiction in law and equity. Further, the next legislature was directed to provide for the appointment of three commissioners "to revise, reform, simplify and abridge" the practice and pleadings of courts of record of the state.⁴⁷ The following year the legislature instructed the commissioners more explicitly, directing them "to provide for the abolition of the present forms of action and pleadings in cases at common law, for a uniform course of

⁴⁰ 35 & 36 Vict. c. 66; for the act and its amendments, see *The Annual Practice* (1924) 2024-2154; for the history of the reform, see Birrell, Odgers, and Bowen, op. cit. note 35, supra; Hepburn, *The Development of Code Pleading*, c. VI.

⁴¹ These provisions are referred to hereinafter. Examples may be found in the provisions for joinder of parties, for pleading in the alternative, and that in case of conflict between the rules of law and equity, the equity provisions shall prevail.

⁴² Rosenbaum, *The Rule-Making Authority of the English Courts* (1917) originally published in vols. 63-64 U. of Pa. L. R., and in other reviews. See note 102, infra.

⁴³ S. E. Baldwin, op. cit. note 39, supra; also in 35 N. Y. State Bar Ass'n Rep. 829; Hepburn, *The Development of Code Pleading*, 112, 113.

⁴⁴ For highly favorable views, see W. B. Perkins, 12 Mich. L. R. 271, 362; Lord Loreburn, 26 Harv. L. R. 98, 5 Mass. L. Q. 165; W. E. Higgins, 7 Journ. Am. Jud. Soc. 185-234, and cf. current and past volumes of that journal. Compare W. H. Taft, 6 Id. 43-46, 8 A. B. A. Journ. 605-607, 47 A. B. A. Rep. 263-286 (1922); Rosenbaum, op. cit. note 42, supra. For less favorable views, see H. U. Sims, 21 Yale L. J. 215; W. N. Gemmill, 4 Ill. L. R. 457; A. H. R., 75 Cent. L. J. 402. Cf. Hepburn, op. cit. chap. VI; W. C. Loring, 8 A. B. A. Journ. 609-611; A. M. Kales, 4 Ill. L. R. 303, 5 Id. 285. On the rule making power of the judges, see note 102, infra. For favorable comments on the system in Ontario, see W. R. Riddell, 62 U. of Pa. L. R. 17, 35 N. Y. St. Bar Ass'n Rep. 806; 6 Journ. Am. Jud. Soc. 6-17; 5 A. B. A. Journ. 639; Amram, 62 U. of Pa. L. R. 269; Harley, 12 Mich. L. R. 339, 447; 5 Journ. Am. Jud. Soc. 144.

⁴⁵ See the bulky *Annual Practice*, the annotated rules of practice, published each year by Messrs. White and King (in 1924) containing pages ccciv, 2419; 400 (index). Cf. remarks of Bijur, J., in 137 E. 66 St. v. Lawrence, 118 Misc. Rep. 496, 194 N. Y. S. 762, 769, 770.

⁴⁶ See reference to many of these hereinafter in this article under the title *Future Reforms of Pleading*.

⁴⁷ Const. N. Y. 1846, art. 6, § 24.

proceedings in all cases whether of legal or equitable cognizance, and for the abandonment of all Latin and other foreign tongues, so far as the same shall by them be deemed practicable, and of any form and proceeding not necessary to ascertain or preserve the rights of the parties."⁴⁸ The commission speedily went to its task and the following year reported a code which with some amendments was passed on April 12, 1848, and became operative on the following first of July.⁴⁹ The code was in large measure the work of David Dudley Field, one of the commissioners, and is generally referred to as the "Field Code."⁵⁰ Though so expeditiously prepared and enacted, it has served as the model of all succeeding codes in this country.⁵¹

Characteristics of the Code.

Probably the most important characteristics of the code were the one form of action and the system of pleading the facts. The first still remains as the crowning achievement of the codes, although in many respects the full benefit of the change has not been completely realized even at the present time.⁵² The forms of action were abolished, the separation of law and equity was done away with, and in its place the codifiers planned a *blended* system of law and equity with only a single form of action to be known as the *civil action*.⁵³ As to the second characteristic, it was planned that the parties should in their pleading state the facts in simple and concise form.⁵⁴ Instead of the *issue pleading* of the common law there was to be *fact pleading*.

As we shall have occasion to see later, this part of the plan has worked least successfully of all the reforms made, since the codifiers and the courts failed to appreciate that the difference between statements of fact and statements of law is almost entirely one of degree only.⁵⁵

Among other important changes may be noted the adoption of the equity principles of greater freedom of joining parties and of rendering judgments in part for or against the various parties as the justice of the case may require (the *split judgment* of equity).⁵⁶

SPREAD AND MODERN EXTENT OF CODE PLEADING.

The system inaugurated by the New York Code of 1848 was adopted in Missouri in 1849, in California in 1850, in Kentucky, Iowa and Minnesota in 1851, and in a total of what are now twenty-four states within twenty-five years of its original enactment.⁵⁷ The following may be considered the code jurisdictions at the present time: Alaska (1900); Arizona (1864); Arkansas (1868); California (1850); Colorado (1877); Connecticut (1879); Indiana (1852); Iowa (1851); Idaho (1864); Kansas (1859); Kentucky (1851); Minnesota (1851); Missouri (1849); Montana (1865); Nebraska (1855); Nevada (1860); New Mexico (1897); New York (1848); North Carolina (1868); North Dakota (1862); Ohio (1853); Oklahoma (1890); Oregon (1854); South Carolina (1870); South Dakota (1862); Utah (1870); Washington (1854); Wyoming (1869); Wisconsin (1856); Porto Rico (1904)—a total of twenty-eight states and two territories.⁵⁸ In addition the Federal

⁴⁸ Laws N. Y. 1847, c. 59, § 8.

⁴⁹ Laws N. Y. 1848, c. 379. See First Report of the Commissioners on Practice and Pleadings (1848).

⁵⁰ Cf. Report of Joint Legislative Committee on Simplification of Civil Practice (N. Y. 1919) 8-11; 35 N. Y. St. Bar. Ass'n Rep. 829; Hepburn, *The Development of Code Pleading*, 83.

⁵¹ Hepburn, *op. cit.* 114, 124.

⁵² See Clark, *The Union of Law and Equity*, 25 Col. L. Rev. 1 (1925). Professor Pomeroy rightly considered this the most fundamental part of the Code. Pomeroy, *Code Remedies* (4th Ed.) 5-7, xxxi (Preface to 1st Ed.).

⁵³ First Report of the Commissioners on Practice and Pleadings (1848) 124, 145; *Id.*, Supplement, 3; Clark, *The Code Cause of Action*, 33 Yale L. J. 817 (1924).

⁵⁴ *Id.*, 75, 76, 141, 142, 147; Clark, *op. cit.* 33 Yale L. J. 821.

⁵⁵ Cook, *Statements of Fact in Pleading under the Codes*, 21 Col. L. Rev. 442; Sunderland, 14 Mich. L. R. 273, 551.

⁵⁶ To be discussed later in the proposed book.

⁵⁷ Hepburn, *op. cit.* 88, 89.

⁵⁸ See Hinton, *Cases on Code Pleading* (2d Ed.) 1; Sunderland, *Cases on Code Pleading*, 2, 3; Hepburn, *op. cit.* 142; 1 Pomeroy, *Equity Jurisprudence* (4th Ed.) §§ 282-288; Shipman, *Common-Law Pleading* (3d Ed. by Ballantine) 2, 3; 19 A. B. A. Rep. 424-432; 54 Alb. L. J. 203; 21 C. J. 24. For a discussion of the practice in California, Colorado, Connecticut, Kansas, Kentucky, Missouri, Montana, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, and Wisconsin, see 35 N. Y. State Bar Ass'n Rep. 818, 822, 827, 851, 872, 906, 927, 946, 950, 954, 983, 988, 1027. Digitized by Google

Equity Rules of 1912 largely follow the Codes.⁵⁹

Of the above states Arkansas, Iowa, Kentucky and Oregon still retain a formal distinction between law and equity. The remainder have the blended system.⁶⁰

Florida adopted the Code in reconstruction days in 1870. The times were inauspicious and three years later the Code was supplanted by a modified common-law system.⁶¹ This is the only case where code pleading, once adopted, has been repudiated.⁶²

It has been customary to classify the non-code states as common-law states and "quasi code" or "quasi common-law" states.⁶³ The distinction is attempted to be made on the basis of nearness of resemblance to the old common-law system or to the code system. But nowhere is the old common-law system entirely in force; all the states have made some approach to the code principles. In the non-code states in general the formal distinctions between law and equity are maintained although considerably broken down, especially by the presence of statutes allowing "equitable defenses" in actions at law.⁶⁴ Often some distinction between the forms of action is maintained, such as one between tort and contract; but where the forms of action have been most retained, there is some modification of the common law, particularly the abolition of the distinction between trespass and trespass on the case.⁶⁵ The following may be treated as

the "quasi common-law" states: Massachusetts, Mississippi, Alabama, Maryland, Tennessee, Georgia, Texas, and Michigan.⁶⁶ The following may be treated as common-law jurisdictions: Delaware, District of Columbia, Florida, Illinois, Maine, New Hampshire, New Jersey, Rhode Island, Vermont, Virginia, and West Virginia.⁶⁷ Pennsylvania in 1915 adopted a simplified practice act in some respects unique but probably justifying the inclusion of that state in the class of quasi code states.⁶⁸ In New Jersey, where the equity and law courts are entirely distinct, a Practice Act was adopted in 1912 for the law courts, which was an advanced system modeled on the English practice. This likewise has had an important effect on the recent New York revision of the Code.⁶⁹ Louisiana has a practice code following the civil law of that state.⁷⁰

ified, however, by some legislation, which still leaves them the nearest approach to the English law of procedure, as it existed before the passage of the Judicature Acts, now remaining anywhere in the world." 35 N. Y. State Bar Ass'n Rep. 850. See Smith, Rev. Stat. Ill. (1921) c. 110, § 36. Some states provide merely for the joining of counts in trespass and case. Code Ala. 1907, § 5329; G. L. R. I. 1923, § 4874. The Illinois statute has been construed to permit simply of a choice between trespass and case; the chosen form must be followed. Shipman, op. cit. 85, note 4.

⁵⁹ Cf. Hepburn, op. cit. 142-152; Shipman, op. cit. 2, 3; Ingersoll, 21 Yale L. J. 58-71. On Massachusetts, see Rep. Jud. Comm. (Mass. 1921) 104-106; 6 Mass. L. Q. 104-106; on Georgia, Maryland, and Mississippi, see 35 N. Y. State Bar Ass'n, 844, 895, 902; on Tennessee, see 1 Yale L. J. 89; on the Michigan Judicature Act of 1915, see E. R. Sunderland, 14 Mich. L. R. 273, 388, 441, 551. In Georgia there is a considerable approach to code pleading, equitable and legal relief being available in a single civil action. Civ. Code Ga. 1911, §§ 5406, 5407, 5508, 5509, 5514; Dekle v. Carter (1923) 156 Ga. 780, 120 S. E. 9. Jury trials may be had in all equity cases. Id. § 5422; 1 Cook, Cases on Equity, 173. In Mississippi under the Constitution (1890) § 147, the Supreme Court cannot reverse any judgment or decree for any error or mistake as to whether the cause was of equity or of common-law jurisdiction. Lee v. Lee (Miss. 1924) 101 So. 845.

⁶⁰ Hepburn, op. cit.; Shipman, op. cit.; Ingersoll, op. cit.; on the District of Columbia, Illinois, Maine, New Hampshire, Rhode Island, Vermont, and Virginia, see 35 N. Y. St. Bar Ass'n Rep. 834, 850, 880, 932, 1006, 1011, 1027; on Illinois, see 1 Ill. L. Bull. 1; 5 Ill. L. R. 267; on Virginia, see 17 Va. Law Reg. 668, 797; 2 Va. Law Reg. (N. S.) 294; J. R. Tucker, Va. State Bar Ass'n Rep. (1892) 85.

⁶¹ Prac. Act Pa. 1915, Pa. St. 1926, pp. 17181-17204, the last of a long series of steps, D. W. Amram, 64 U. of Pa. L. R. 223; 66 U. of Pa. L. R. 195.

⁶² Laws N. J. 1912, p. 877; Hartshorne, 8 Va. Law Rev. 18; Keasbey, 35 N. Y. St. Bar Ass'n Rep. 834; Conboy, 73 Annals Am. Soc. of Pol. & Soc. Sc. 170; Sheen's New Jersey Practice Act (1916).

⁶³ Hepburn, op. cit. 16 n. 78-80. Under the influence of Edward Livingston, probably the first in

⁵⁹ Infra, p. 727.

⁶⁰ To be discussed in the proposed book.

⁶¹ Laws Fla. 1873, p. 15; Mechanics & Metals Nat. Bank v. Angel, 85 So. 675; Atl. Coast Line R. Co. v. State, 74 So. 595.

⁶² Cf. H. H. Ingersoll, 1 Yale L. J. 89, as to early discontent with the code in North Carolina.

⁶³ Hepburn, op. cit. 142; Shipman, op. cit. 1-3.

⁶⁴ Hinton, Equitable Defenses, 18 Mich. L. R. 717; Cook, Equitable Defenses, 32 Yale L. J. 645. That the following only are the states having separate chancery courts: New Jersey, Delaware, Vermont (but with the same judges as the common-law courts), Alabama, Arkansas, Mississippi, and Tennessee—see Ingersoll, 21 Yale L. J. 58. Cf. 21 C. J. 24; 1 Pomeroy, Equity Jurisprudence (4th Ed.) §§ 232-238. In the other non-code states and in the federal courts, law and equity are administered as distinct systems but in a single court.

⁶⁵ This is true even in Illinois, whose "pleading and practice are not only derived from the common-law system, but they are in fact that system, mod-

While we deal especially with code pleading in this book it would be a mistake to suppose that a study of the procedure of those other states is not instructive to us. Thus Massachusetts seems to have a very workable system, with particularly simple and desirable methods for stating the case, which may serve as a model for code pleaders.⁷¹ Again many of those states in certain particulars may be more advanced than the code states. Thus Rhode Island was one of the first and is now one of the few states to follow the English system of allowing pleading in the alternative;⁷² while New Jersey has the most modern system as respects joinder of parties and of causes, and as respects the rule making power in the judges.⁷³ It may be—indeed it is to be hoped—that code pleading will lose its distinctive characteristics in a general American system applied in practically all the states. This would undoubtedly correspond rather closely to the present English system.⁷⁴

FEDERAL PLEADING.

As a result of history and perhaps in part of an unfortunate belief that under the federal Constitution separate courts of law and equity are necessary, Congress has failed to provide for the amalgamation of the two systems.⁷⁵ Though the district court now sits both as a court of law and as a court of equity, the two jurisdictions are kept entirely distinct. (There is, however, a statute passed in 1915 allowing equitable defenses in ac-

tions at law.)⁷⁶ It is provided that "the forms and modes of proceeding in suits of equity and of admiralty and maritime jurisdiction in the District Courts shall be according to the principles, rules, and usages which belong to courts of equity and of admiralty respectively," and the Supreme Court of the United States is given power to establish rules of practice.⁷⁷ It has exercised this rule-making power, and the equity rules have been subject to several revisions.⁷⁸ The last revision, that of 1912, much simplified the procedure and closely follows the code provisions in many sections, such as those dealing with parties. There is thus established a uniform simplified procedure in equity for the federal courts throughout the country.⁷⁹

On the law side the situation is not satisfactory. Here Congress by the Conformity Act, originally passed in 1872, has provided that "the practice, pleadings, and forms and modes of proceeding in civil causes, other than equity and admiralty causes, in the District courts shall conform, as near as may be, to the practice, pleadings, and forms, and proceedings existing at the time in like causes in the courts of record of the state within which such District Courts are held."⁸⁰ The first difficulty lies in the question when conformity is to be had. The federal courts constitute an entirely independent judiciary system, and no conformity is to be had in conflict with positive provisions of federal legislation; in any event the conformity is only as "near as may be." The second difficulty is that unlike the equity procedure there is not a unified practice for all the federal courts. The attempt is made to apply

this country to be affected by the ideas of Bentham, the Louisiana practice became unique. The Code of Practice drafted by Livingston was adopted in 1806. "From it very many of the best portions of the Field Code were adopted." 19 A. B. A. Rep. 427; 54 Alb. L. J. 204.

⁷¹ 2 Rev. Laws Mass. 1921, c. 281, § 147. See 32 Yale L. J. 433; 36 N. Y. St. Bar Ass'n Rep. 825; Wm. H. Taft, 18 Yale L. J. 23, 31.

⁷² Rev. St. R. I. 1909, c. 283, § 20. It has, however, been given a limited application by the courts. See 31 Harv. L. R. 1034.

⁷³ See note 69, *supra*. Cf. note 13, *supra*.

⁷⁴ On uniformity in procedure, see Hepburn, *op. cit.* 136, 137; 18 A. B. A. Rep. 33 (1895), creating a Committee on Uniformity of Procedure and Comparative Law, and Report thereof, 19 A. B. A. Rep. 411 (1896); 54 Alb. L. J. 198; also current reports of the present A. B. A. Committee on Uniform Judicial Procedure.

⁷⁵ See note 83, *infra*.

⁷⁶ Act March 3, 1915, 38 Stat. 956, U. S. Comp. Stat. § 1219; 32 Yale L. J. 645, 646; Adams, 10 A. B. A. Journ. 467; Hinton, 18 Mich. L. R. 717.

⁷⁷ Rev. Stat. U. S. § 917, U. S. Comp. Stat. § 1543.

⁷⁸ Hopkins, *Federal Equity Rules* (4th Ed.) 37 *et seq.*

⁷⁹ 226 U. S. (Appendix) 1, 33 Sup. Ct. xix, 57 L. Ed. 1633, 198 Fed. xix, 115 C. C. A. xix; W. R. Lane, 27 Harv. L. R. 629; 29 Harv. L. R. 55; 35 Harv. L. R. 276; Bunker, 11 Mich. L. R. 435; Wurta, 22 Yale L. J. 241; Hopkins, *op. cit.* note 78, *supra*.

⁸⁰ Rev. Stat. U. S. § 914, U. S. Comp. Stat. 1913, § 1537. This statute does not apply to proceedings in the Circuit Court of Appeals and the United States Supreme Court which are governed by the common law. *Camp v. Gress*, 250 U. S. 308.

all the differing rules followed in the various states. Instead of aiding in establishing uniform pleading generally the federal conformity practice has simply served to emphasize the discord of our procedure.⁸¹ To remedy this unfortunate situation the American Bar Association has supported a bill before Congress, providing for the establishment of a uniform federal system at law, with rules made by the Supreme Court, a system comparable to the uniform Federal equity system.⁸² It would seem, however, that remedial provisions should go still further and provide for a single blended system of law and equity as in the code states. According to the better view, a constitutional amendment is not necessary to achieve this result.⁸³

REVISIONS OF THE CODE.

While legislative tinkering with the codes is usual, a general revision of the entire code has been infrequent, except in its birth state, New York.⁸⁴ There the Code was renumbered and re-enacted with some changes in 1849, one year after its adoption, and further important amendments were made in 1851 and 1852. Other amendments followed. A commission was appointed in 1870 to revise and consolidate the statutes relating

to courts and procedure. The work of this commission resulted in the passage of a Code of Civil Procedure, commonly called the Throop Code in 1876 and 1877, with an addition made in 1880. By inclusion of various substantive laws it came to number in excess of 3400 sections while the original Field Code contained only 391 sections.⁸⁵

The Throop Code with amendments, additions and repeals continued in effect until 1920. Attempts were made to secure revisions notably by commissions appointed by the legislature in 1895 and again in 1900, both making reports which were not adopted. In 1904 a Board of Statutory Consolidation, consisting of five able lawyers, with Judge A. J. Rodenbeck as chairman, was created to consolidate the general statutes of the state and to revise practice in the courts. The Consolidated Laws of 1909 was the first fruit of their labors. In 1912 the legislature authorized this board to present a detailed plan for the revision of practice. This was reported in 1915, and consisted of a short practice act of 71 sections, and 401 rules of court, thus definitely following the English precedent. The work was ably done and the Report is available for study in connection with future reforms of pleading. The legislature created a joint Legislative Committee on the Simplification of Civil Practice and referred the report to it. This committee reported in 1919, rejecting the main feature of the Board report—a short act with broad rule-making power in the court—and offering a Civil Practice Act which was adopted in 1920 and went into effect October 1, 1921.⁸⁶

⁸¹ Hepburn, op. cit. 152-172; 3 Foster, *Federal Practice* (6th Ed.) 1201, et seq.; 6 A. B. A. Journ. 525; 35 Harv. L. R. 602; 31 Yale L. J. 447; 25 Yale L. J. 221; 15 Mich. L. R. 325.

⁸² For history of the movement and copy of the bill, see Report of the A. B. Committee on Uniform Judicial Procedure, 5 A. B. A. Journ. 468 (1919); Id. 569 (1920); 48 A. B. A. Rep. 343-361 (1923); G. E. Osborne, 7 A. B. A. Journ. 251; W. H. Taft, 8 A. B. A. Journ. 34, 601, 604, 607. See, also, T. W. Shelton, 7 A. B. A. Journ. 165; 1 Va. Law Rev. 39; 5 Va. Law Rev. 111; A. W. Scott, 38 Harv. L. R. 1; 23 Mich. L. R. 154. In 1923 following the suggestion of Taft, C. J., an additional proposal for the creation of a commission to draft amendments to the statutes simplifying the practice at law was submitted to Congress.

⁸³ See thorough discussion of the problem by Dean Pound, 36 A. B. A. Rep. 470 (1911); 73 Cent. L. J. 204-210. Cf. Osborne, 7 A. B. A. Journ. 251; Hepburn, op. cit. 162-164.

⁸⁴ Colorado has, however, empowered its Supreme Court to make and change rules of practice and procedure, which "shall supersede any statute in conflict therewith." Laws 1913, p. 447, § 1; Code C. P. 1921, § 444. The 1921 edition of the Code, however, repeats the old statutes. For criticism of the rules first drafted by the court (in 1914), see E. L. Regennitter, 18 Col. Bar Ass'n Rep. 131 (1915). The rules were then changed. The Bar Association has since recommended a standing Rules Committee of judges and lawyers. 19 Col. Bar Ass'n Rep. 178, 220 (1916); 27 Col. Bar Ass'n Rep. 339 (1924).

⁸⁵ As pointed out by the Report of the Joint Legislative Committee on the Simplification of Civil Practice (N. Y. 1919) 11, the difference is to a considerable extent accounted for by the inclusion in the later code of provisions of substantive law. See, also, Hepburn, op. cit. 130, 131; Report of Board of Statutory Consolidation (1914), 4.

⁸⁶ Laws N. Y. 1920, c. 925, effective originally April 15, 1921, the time being extended by Laws 1921, c. 199, § 28, to October 1, 1921. For the history of the act, see Report of Joint Legislative Comm. (1919) 5-35; Report of Board of Statutory Consolidation (1915) 3; A. J. Rodenbeck, 44 N. Y. St. Bar Ass'n Rep. (1921) 532, et seq.; Wickersham, 29 Yale L. J. 904; Medina, 21 Col. L. R. 113; Ingram, 7 A. B. A. Journ. 402; Harley, 11 Ill. Law Rev. 37; Gross, 23 Yale L. J. 369. For the report of the commission of 1895, see 52 Alb. L. J. 390, 408; 53 Alb. L. J. 6; Hepburn, op. cit. 130-136.

This new act is a combination of the old code and the modern English system. It is not a thorough-going adoption of the English system as was the New Jersey Practice Act of 1912. Certain provisions such as those for joinder of parties are taken directly from the English practice. Unfortunately the legislature seems not to have realized the inter-relation of the various subjects. Thus, having liberalized the provisions for joinder of parties, it proceeded to retain the old code provisions for joinder of causes. The two parts of the code must often be applied together, so that we have two utterly inconsistent tendencies.⁸⁷ Again while some rule-making power is given the judges, the Act attempts to prescribe the details of practice, contrary to the teachings of experience under the old New York code. The Act is in many ways an advance over the former code; it has succeeded in materially reducing the bulk of the code, largely by transferring substantive law provisions to the appropriate substantive law sections; and it incorporates many of the most advanced provisions of the English and other systems.⁸⁸ But it continues the old policy of legislative control of the details of practice.⁸⁹ The process of amendment

has already begun and unfortunately may be expected to continue.⁹⁰

In 1919 the American Judicature Society prepared a model code and rules of civil procedure. This work is also based largely on the English experience and it, as well as the proposed Rodenbeck Code, should be carefully studied by all draftsmen of codes and rules of procedure.⁹¹

FUNCTIONS OF PLEADING.

Pleading should perform the office only of *aiding* in the enforcement of substantive legal relations. It should not limit the operation of the general law which defines rights and duties, privileges and powers of individuals, but should aid in the enforcement of such relations. It is a means to an end, not an end in itself—the “handmaid rather than the mistress” of justice.⁹² This would probably be generally admitted. Even so we will probably favor a strict enforcement of pleading rules if we expect a great deal of it. As we have seen under the common-law system much was expected of pleading. The exact issue had to be defined by it. To enforce this result, the rules were insisted on to an extent that, as it now appears, form was exalted over substance, and the means became the end. Under the civil law little is expected of pleading. Consequently, continental jurists need not insist on the enforcement of pleading rules and their pleading decisions are few. The “liberal” pleader expects less of pleading than

ance with the practically unanimous view of students of the subject generally. See discussion hereinafter, this article.

⁹⁰ Amendments to the Civil Practice Act have been made by each succeeding Legislature beginning in 1921. Cf. 46 N. Y. St. Bar Ass'n Rep. 123 (1923), that the amendments were not as numerous as expected.

⁹¹ Bulletin XIV, Rules of Civil Procedure, Am. Jud. Soc. 1919. For the Rodenbeck Code, see Report of Board of Statutory Consolidation, N. Y. (1915), and cf. Id. (1912). There is also available the valuable Report to the Phi Delta Phi Club by its Committee on the Simplification of the Machinery of Justice printed with accompanying papers in 73 Annals Am. Soc. of Pol. & Soc. Sc. (1917) 1-229. See, also, 41 N. Y. St. Bar Ass'n Rep. (1918) 342-429. For Bibliography of Procedural Reform, see Pound, 11 Ill. L. Rev. 455, 5 Mass. L. Q. 332, 344; 73 Annals Am. Soc. of Pol. & Soc. Sc. 90-103; also Report of Bd. of Statutory Consolidation (N. Y. 1912) 221-227.

⁹² Per Collins, M. R., in Re Coles, [1907] 1 K. B. 4. Cf. Roscoe Pound, Some Principles of Procedural Reform, 1910, 4 Ill. L. Rev. 388, 402; Dunnett v. Thornton (1900) 73 Conn. 1, 5, 46 A. 158.

⁸⁷ 32 Yale L. J. 384; 137 E. 66th St. v. Lawrence, 118 Misc. Rep. 486, 194 N. Y. S. 762.

⁸⁸ These will be discussed in appropriate places in the proposed book. Among them may be noted the much more liberal provision as to joinder of parties, pleading in the alternative as to parties, abolition of demurrers, and provision for summary judgment on motion—the latter a most important provision developed under the rules. See Rothschild, 23 Col. L. Rev. 618, 732; McCall, 10 A. B. A. Journ. 22-24; Walters, 44 N. Y. St. Bar Ass'n Rep. 1921, 400-420; note 86, *supra*.

⁸⁹ Arguments of the Committee for refusing to adopt the Board's recommendation are given in its Report 1919, 5 et seq. It felt that the Board planned to give the judges functions they were not properly called upon to perform, that the code should contain a complete system of practice, rather than have the system partly in the code and partly in rules, and that the legislative system would give definiteness. The State Bar Association seems rather consistently to have favored the plan of the Board and the criticism of the Civil Practice Act was very severe. In general see the reports from 1916 on, and especially 44 N. Y. St. Bar Ass'n Rep. 1921, 420 et seq., 441 et seq., 525 et seq., and remarks of Judge Rodenbeck, 532-545. It was admitted by Judge A. T. Clearwater, an advocate of rule-making power in the judges, that “Personally, I am satisfied that the majority of the profession in this state are unwilling that the judges should formulate rules of procedure.” Id. 531. Such a point of view on the part of the members of the bar, while perhaps typical of a conservative profession, is quite at vari-

the "strict" pleader. Consequently we need to determine our point of view before we can decide how to approach pleading problems.

Though we are historically committed to the policy of requiring the pleadings to determine the issue, and still continue to a considerable extent in this position, we are gradually learning to expect less of pleading. The insistence on it seems often not worth the price. The difficulties are accentuated by lack of sufficiently well trained lawyers among the members of the bar. It takes great skill as well as a thorough knowledge to be a good pleader. Many judges naturally will hesitate to sacrifice the rights of clients because of the pleading mistakes of their attorneys. Moreover popular opinion is likely always to take the side of the clients which may show itself in legislative action as well as in criticism of the judges. We are therefore in a middle position between the common and the civil law. We still expect something of pleading but are more disposed to realize that there are difficulties in the way of complete achievement of its ends. Hence we have our modern so-called liberal attitude towards it. We tend towards the civil law system; we shall probably not reach it for many generations, if at all. Perhaps, however, the future may devise some test of the relative values of the two, so that a definite choice may be possible.

Issue Pleading, Fact Pleading, and Notice Pleading.

For the present we may attempt to state the main purpose of pleading as we now conceive of it. If the common law may be termed *issue pleading*, since its main purpose was the framing of an issue, code pleading may be referred to as *fact pleading* in view of the great emphasis placed under the codes upon getting the facts stated.⁹⁶ At the present time there is advocated what is called *notice pleading*. This is in general a very brief statement designed merely to give notice to the opponent. It has been used

apparently with considerable success in the field of municipal courts and is now urged for general adoption.⁹⁴

An analysis of the new proposition shows that it differs in the main in the extent of generality of statement permitted. Thus, instead of describing the particulars of an accident, only the time and fact of the accident are referred to.⁹⁵ There is not so much a change in the kind of pleading as a change in emphasis. The common-law pleading both set forth facts and gave notice, but stressed mainly the framing of the issue; the code produced one or more issues and gave notice, but did this while setting forth the facts. So notice pleading, giving some facts, presents a very broad issue.

It is perhaps doubtful if we are now prepared to go to the complete lengths of brevity urged by the proponents of notice pleading, except in isolated cases. But without so doing we may properly put the emphasis where they do. This, it seems, is in effect the modern tendency. The aim of pleadings should be therefore to give reasonable notice of the pleader's case to the opponent *and to the court*.⁹⁸ The notice to the court is perhaps the more important, for in general the opponent knows enough about the case to relieve us of worry about him. In fact we have spent altogether too much thought over the danger of surprising a defendant.⁹⁷ If his case is prepared at all adequately he will not be surprised. Our solicitude for him will simply result in giving him opportunities to delay the case and harass his opponent. The main purpose of the pleadings should therefore be to give the trial court

⁹⁴ Whittier, Notice Pleading, 31 Harv. L. R. 501; 4 Ill. L. Rev. 174, 178, 182; 5 Ill. L. Rev. 267; Pound, 4 Ill. L. Rev. 388, 497; Willis, 5 Ill. L. Q. 17; 8 Cal. L. Rev. 326; Sunderland, 14 Mich. L. R. 551; 8 Mich. L. R. 400. Cf. Isaacs, Logic v. Common Sense in Pleading, 16 Mich. L. R. 539.

⁹⁵ Whittier, op. cit. note 94, supra; 32 Yale L. J. 483.

⁹⁶ 35 A. B. A. Rep. 614, 638 (cited supra, note 5), stating that the other functions of pleading, so far as they should be retained, will be at least as well served as now. Thurman v. Alvey, 233 S. W. 749; Am. Express Co. v. State, 132 Md. 72, 103 Atl. 96; Anderson v. Mollitor, 193 N. W. 851; Kelley v. Armstrong, 132 N. E. 15.

⁹⁷ Peckham, J., dissenting in De Graaf v. Elmore, 50 N. Y. L.

⁹⁸ 32 Yale L. J. 483.

a proper understanding of the case. If the trial court is adequately informed of the issue by the pleadings, it means that the parties are likewise so informed. It is for the court not the litigants to vindicate pleading rules.⁹⁸

To state such a purpose is not to solve all pleading problems, but merely to give what should be the end in view. We may then test our solution of the problems by seeing how well they achieve this end. The code purpose of stating the facts did not work. Facts are not such definite and certain things as the codifiers apparently believed. There are more specific facts and less specific facts, but not merely facts as isolated from law or evidence. This was the least successful part of the code reform.⁹⁹ It may therefore properly give place to the purpose of fair notice.

FUTURE PLEADING REFORM.

The brief survey of pleading made in this article should show that no system of pleading yet devised may be considered final, and that unless pleading rules are subject to constant examination and revaluation, they petrify and become hindrances, not aids, to the administration of justice. Many lawyers are disturbed by the idea that the rules of practice must be changed. There is always a strife for that delusive certainty in the law. Lawyers who have become accustomed to a system think that it achieves such certainty. Unfortunately, however, that hoped-for end is not secured by repeated attempts to define a pleading rule. This is because the law suit is to vindicate rules of substantive law, not rules of pleading, and the latter must always yield to the former. The *uncertainty* of pleading rules, even though defined and re-defined, will be only too apparent as we proceed with the discussion of the subject. The matter of joinder of parties is perhaps a striking example of the failure of the courts to clarify the subject by continual definition. Moreover, pleading rules naturally tend to become harsh and inflexible. This has been well

expressed by Professor Hepburn when he speaks of "the inveterate nature of the incongruity" between procedure and substantive law—that "the former petrifies" while the latter is growing, and "the conservatism of the lawyer preserves the incongruity."¹ It is interesting, if somewhat depressing, to observe the gradual development of an involved and technical practice from the piling up of precedents on an originally simple code.² The moral seems clear. The ministers of justice must be eternally on the job of keeping their tools keen and bright. It is not a misfortune for a code of procedure to require revision; it is its nature.

Rule-Making Power in the Judges.

How should such revision be accomplished with the least disturbance? A general periodic revision of the code is disturbing; further it is not necessary. If the court is empowered and directed to make and alter rules of practice, the requisite flexibility of procedure may be obtained. Any change made at any one time is likely to be so small as not to give the effect of constant change and uncertainty in the entire code, and yet some change will actually be expanding and developing the code as need seems to demand. This system has worked well in England and in some states in this country where it is followed in whole or in part.³ It is almost universally considered by writers as the first and fundamental step in procedural reform.⁴ Of

¹ Hepburn, Development of Code Pleading, 31.

² Compare as to pleading negligence in Connecticut, 32 Yale L. J. 483.

³ For description of the English system, see Rosenbaum, The Rule-Making Power, note 42, supra. Procedural rules of court are provided for by statute in at least New Jersey, Colorado, Connecticut, Alabama, Michigan, Virginia, and New York, and the power probably exists to a limited extent at least in practically all the states. See citations, note 4, infra, and cf. Hepburn, op. cit. 195. On the failure of courts to exercise the power when given them, see Sunderland, 22 Mich. L. R. 293; 15 Mich. L. R. 325. On the refusal to adopt the system more fully in New York in the C. P. A., see note 89, supra.

⁴ Of the many authorities the following are typical. R. Pound, 10 Ill. L. Rev. 163, 4 Ill. L. Rev. 388; Wm. H. Taft, 18 Yale L. J. 23, 32, 72 Cent. L. J. 191, and loc. cit. note 82, supra; S. E. Baldwin, Two Centuries Growth of American Law, 313, 317, 35 N. Y. St. Bar Ass'n Rep. 833; C. A. Boston, 61 U. of P. L. R. 1, 7-10; W. B. Perkins, 10 Mich. L. R. 519, 533; T. W. Shelton, 1 Va. Law Rev. 89, 5 Va. Law Rev. 111, 73 Annals Am. Soc. of Pol. &

⁹⁸ Pound, 4 Ill. L. Rev. 388, 402.

⁹⁹ See note 55, supra.

objections raised to it none seem substantial except the one that the courts too will not exercise the power, a criticism of the courts rather than the system. The objection of resulting uncertainty in the practice has been stated. The objection that this is not a judicial function has been often answered; in fact, according to the view of many, the court has the inherent power to make such rules even in the absence of statute.⁵ The objection that our judges, being politically chosen, are not sufficiently able to regulate practice seems to give its own answer. By all means let us have abler judges, if possible; but no system of arbitrary technical rules, the exact meaning of which is not clear, will make up for lack of ability in the court. That weakness is concealed behind an indefinite rule is no gain. In any event the judges are likely to give better practice rules than the legislature. It is, however, a practical objection that unfortunately the judges too need some stimulus to reform. Perhaps the best method is that of the rule-making power vested in a *unified* court, with a directing head, and with some agency, possibly a "ministry of justice," responsible to the electorate and charged with the duty of initiating and advocating reforms of this kind.⁶

An Initial General Revision of the Code.

Should the entire code be revised, as a preliminary to the establishment of rule-

making power in the judges? No totally new system is apparently now to be desired, but nevertheless it seems desirable, as the New York Board of Statutory Consolidation concluded, to repeal the present code entirely. In its place may be substituted a statute committing the entire matter of pleading to the courts under their rule-making power, as in Colorado; or a short general code, giving the fundamental principles of practice, and committing the details to the courts, as in New Jersey and under the system proposed by the Board of Statutory Consolidation for New York.⁷ The change will not be as great as the lawyers are likely to fear, for the fundamentals of pleading will remain the same. It will probably be not more than that occasioned by the Civil Practice Act of 1920 in New York, though the framers of that act refused the more thorough reform on the ground of the drastic character of the change and consequent unsettlement of practice. Nor should revision mean simply the transfer of the present provisions from the statutes to the rules. Improvement in the statement of the provisions themselves is most desirable. It is only an unsubstantial dream to think that constant attempts at definition have made these provisions clear; they merely served to make the blindness of the provisions more apparent. The original framers of the code desired to lay down rigid rules that would leave nothing to discretion and the operation of which could always be definitely foretold. Even in taking over equity principles of convenience and flexibility, they attempted a precise statement with a seemingly definite content, as in the case of joinder of parties and of actions. This was most unfortunate, as it has turned out in practice.⁸ It does not seem possible to apply mechanical rules to pleading, where the enforcement of such rules is not the *end in view* in the litigation. The terms used by the codi-

Soc. Sc. 163; O. W. McMurray, 7 Cal. L. Rev. 147; A. J. Rodenbeck, 44 N. Y. St. Bar Ass'n Rep. 532; 72 Cent. L. J. 402; J. J. Thompson, 11 Ill. L. Rev. 406; E. M. Morgan, 2 Minn. L. R. 81; E. F. Albertsworth, 7 Corn. L. Q. 310; A. W. Scott, 33 Harv. L. R. 236, 38 Harv. L. R. 1; Z. Chafee, 35 Harv. L. R. 673, 712; Hugh E. Willis, 8 Cal. L. Rev. 326, 5 Ill. L. Q. 17; 73 Annals Am. Soc. of Pol. & Soc. 68-77; 3 Va. Law Rev. 18; 31 Yale L. J. 763; 35 A. B. A. Rep. 635; 34 A. B. A. Rep. 578, 595-600; 10 A. B. A. Journ. 589; Report Board of Statutory Consolidation (N. Y. 1915) 5, 6, 170-177; Id. (1912) 27-32. For a somewhat contrary view, see A. M. Kales, 4 Ill. L. Rev. 303, 324 (1909) 5 Ill. L. Rev. 336 (1911); and compare Hepburn, Development of Code Pleading, § 224; N. Y. Joint Committee, cited note 89, supra; H. T. Gilbert, Proc. Ill. Bar Ass'n (1909) 328.

⁵ Among the authorities cited in note 4, supra, see especially Pound, 10 Ill. L. Rev. 163, 170, 177. See, also, A. J. Rodenbeck, 41 N. Y. St. Bar Ass'n Rep. 242-256, on New York.

⁶ See a suggestive article by Prof. E. R. Sunderland, Machinery of Procedural Reform, 22 Mich. L. R. 293; McMurray, Procedural Reform, 7 Cal. L. Rev. 147.

⁷ The former is the system preferred by Dean Pound, 10 Ill. L. Rev. 163, 176.

⁸ Clark, The Code Cause of Action, 33 Yale L. J. 817. Cf. S. H. Allen, 10 A. B. A. Journ. 115; R. Pound, The Decadence of Equity, 5 Col. L. Rev. 20; R. Pound, 10 Ill. L. Rev. 163, 167.

fiers proved hopelessly indefinite. The rules may be reframed to indicate the purpose sought to be achieved. They may give the *guiding principle* to the court, but this must be worked out by the court itself, and a large measure of discretion is necessary. Thus, under the English, New Jersey and New York acts the guiding principle of joinder of parties is made to be the "existence of a common question of law and fact." This seems a much more workable principle than the blind language of the old code.⁹ Further improvement along this line seems possible.

Incidental Reforms in Pleading.

As hereinafter indicated, a clearer analysis of many pleading problems may aid to better the practice. But there are several instances where the codes or governing rules themselves should be amended to permit of desirable changes. These proposed amendments also are discussed in their appropriate connections in the following pages. Among these may be included freer joinder of parties plaintiff and defendant, and of causes of action, including freer privileges of bringing in new parties and of intervention; the waiver of jury trial by failing to claim it within the proper time; pleading in the alternative both as to parties and as to the facts; restriction of the relief granted to that claimed only in cases of *non-appearance* (not where no *answer* is filed); abolishment of the demurrer and the taking of objection by motion; summary judgment on motion; still freer power of amendment; the declaratory judgment, etc.¹⁰

⁹ *Id.*

¹⁰ The reasons for these changes are stated in the discussion in the book as to each one. Many were included in the code of the Board of Statutory Consolidation, N. Y. 1915, and are among those stated by the Joint Legislative Committee on the Simplification of Civil Practice (N. Y. 1919) 27, to have met "with a most uniform general disapproval" from the profession in New York. "The number of lawyers who responded to that important communication [the committee's questionnaire] was so negligible as hardly worth reciting in numerals." A. T. Clearwater, 43 N. Y. St. Bar Ass'n Rep. 145. It is recognized that reform measures should not be obnoxious to the lawyers, for it is the bench and bar who must work with the rules of practice and pleading. Nevertheless it seems always true that many, perhaps most of the bar, will prefer the system with which they are familiar, rather than

Miscellaneous Practice Reforms.

These changes in the rules of pleading should be accompanied by changes in the organization of the courts and in other parts of the practice system. It seems that the judges will not exercise their rule-making function without some directing head, and perhaps not even then without impetus given by some social agency in touch with and responsive to political needs.¹¹ Thus the system so generally urged to secure administrative efficiency in the courts of a unified court of many judges under the direction of a presiding judge appears also necessary in connection with the suggested pleading reforms.¹² Along with this may go the "ministry of justice" the function of which shall be to provide the initial urge for improvement.¹³ So there should be provided masters or court officers to frame issues for the parties when these are not made clear by the parties themselves.¹⁴ At the same time other fields of practice deserve careful study. Thus calendar practice—the method of assigning cases ready for trial—is usually wasteful and inefficient. In particular the practice of appellate review requires revision. Simplification of the making up of the record, provision for the taking of evidence on appeal, for amendment before the appellate court, and for the limiting of an order for a new trial to the question of damages only are among the reforms urgently needed.¹⁵

something unknown which may even work better. Practice reforms from the days of Jeremy Bentham and of David Dudley Field have always had to meet such opposition. See note 27, *supra*; Hepburn, *op. cit.* 18. It seems, therefore, that a change otherwise desirable ought not to be refused merely because of such opposition. In time it will probably change to support as in the case of the code generally.

¹¹ Cf. Sunderland and McMurray, *op. cit.* note 5, *supra*.

¹² Harley, *Business Management for the Courts*, 5 Va. Law Rev. 1; 25 Yale L. J. 443; Thompson, *The Machinery of Justice*, 11 Ill. L. Rev. 406; Sims, 3 Va. Law Rev. 598; Pound, 4 Ill. L. Rev. 388; Report of Phi Delta Phi Committee, and papers by Jessup, Harley, Wells, Alger and others, 73 Annals Am. Soc. of Pol. & Soc. Sc. (1917) 1, et seq.; 10 A. B. A. Journ. 105; 34 A. B. A. Rep. 539; Bulletin VII-A, State-Wide Judicature Act, Am. Jud. Soc. (1917), and current numbers of Journ. of Am. Jud. Soc.

¹³ Cardozo, *A Ministry of Justice*, 35 Harv. L. R. 113; Sunderland, *op. cit.* note 5, *supra*.

¹⁴ See note 13, *supra*.

¹⁵ See Albertsworth, *Leading Developments in Procedural Reform*, 7 Corn. L. Q. 310; Pound, 4 Ill.

Abolition of Pleadings.

All pleading have been dispensed with before some tribunals, notably administrative tribunals such as workmen's compensation and public utilities commissions, special courts such as probate courts, and courts for the expeditious settlement of small claims. It has been feared by some lawyers that this was the forerunner of a general movement to abolish all pleadings.¹⁶ It would seem, however, that these cases are of a special nature. In the case of small claims courts, the matter in dispute is small and usually there is little issue to be made, the defendant's real hope of defense being the expense to the plaintiff. Here formal pleadings should be dispensed with to save delay and expense.¹⁷ In the other cases, the issues in each case are usually defined by the statute or governing rule and are substantially the same for every case.¹⁸ Where the question is defined by the nature of the proceeding and does not depend upon the circumstances of the particular case, formal pleadings are not necessary. In England in certain actions to recover a debt or liquidated demand the plaintiff may make his Statement of Claim, in short form by special endorsement on his writ of summons. Again, the parties by agreeing on the issues may dispense with pleadings.¹⁹ Beyond cases of these types

it is not probable that the abolition of pleadings will go at the present time.²⁰

Development of Procedural Jurisprudence.

It has already been noted that unlike the continental countries, there has been little attempt in our system of law to develop a procedural jurisprudence.²¹ All our attention has been directed to the immediately practical and almost no attempt has been made to state fundamentals. In fact high authorities have urged that it was impossible to study pleading as a general science; all that should be attempted was the local code.²² One result of that is seen in the lack of knowledge and even the aversion to knowledge of advances in pleading made in other jurisdictions shown by the average lawyer. It is believed that the hope for real pleading reforms and for the developing of a uniform system of procedure rests largely upon the development of a different attitude towards the study of pleading—an attitude that it is not so much local "practical" subject, as a general "theoretical" one.²³ Happily there are many signs of the broader conception.²⁴

L. Rev. 888, 491; Osborne, 7 A. B. A. Journ. 245; 71 U. of Pa. L. R. 79; Tinker v. Sauer, 106 Ohio St. 135; 32 Yale L. J. 506; Robinson v. Payne (N. J.) 122 Atl. 882; 33 Yale L. J. 836.

¹⁶ On the movement to abolish all pleadings, see Rosenbaum, the Rule-Making Authority, 73, 80; Thayer, Prelim. Treatise, 367, note 3. On the growth of administrative justice, see Pound, Law and Morals (1924) 59; Pound, Justice According to Law-Executive Justice, 14 Col. L. Rev. 12; Pound, 44 A. B. A. Rep. 445 (1919); Smith, Administrative Justice, 18 Ill. L. Rev. 211; W. D. Guthrie, 46 N. Y. St. Bar Ass'n Rep. 169, 175.

¹⁷ Smith, Justice and the Poor, 41, 52, 54, 56.

¹⁸ E. g., the question whether a will is entitled to probate, the question whether an accident "arose out of and in the course of the employment" of a workman, the question whether a claimant was dependent upon a workman, etc.

¹⁹ Ann. Prac., 1924, p. 13, O. 3, r. 6; Id., p. 560, O. 34, r. 9. Cf. Ackerman & Hartnick, Inc., v. Berkowitz (1924) 206 N. Y. S. 624.

²⁰ From November, 1893, to February, 1917, in England power was given to a plaintiff to dispense with pleadings but the experiment proved a failure and Order XVIII-A was annulled at the latter time. See Odgers, Pleading and Practice (8th Ed.) 43.

²¹ See note 17, supra, citing Millar, The Formative Principles of Jurisprudence.

²² C. W. Pound, Handbook of the Ass'n of Am. Law Schools (1922) 99, 106; (1919) 4 Corn. L. Q. 143; C. M. Hough, Handbook Ass'n Am. Law Schools (1922) 110, 112.

²³ Cf. 33 Yale L. J. 109; E. R. Sunderland, 36 Harv. L. R. 239; J. B. Winslow, Relation of Legal Education to Simplicity in Procedure (1912) 27 A. B. A. Rep. 741.

²⁴ See the work of Professor Millar noted above, note 19, supra, and compare the interest in the subject shown by the Association of American Law Schools, McBaine, Handbook Ass'n Am. Law Schools (1922) 112, replying to Judges Pound and Hough, note 22, supra; Sunderland (1922) Id. 169, 21 Mich. L. R. 372, 29 W. Va. L. Q. 77; McCaskill (1924) 5 Am. L. Sch. Rev. 286; Scott, 7 A. B. A. Journ. 315; Osborne, 7 A. B. A. Journ. 245. Thus, the comparative study of declaratory judgment (cf. Borchard, 27 Yale L. J. 1; Sunderland, 16 Mich. L. R. 69) has been of important service in the development of that reform. For Bibliography of Procedural Reform, see note 91, supra.

A Synopsis of the Present Requirements for Admission to the Bar in the States and Territories of the United States

By E. S. HOLMGREN

Librarian, West Publishing Company

SINCE the passage of the resolutions of the American Bar Association, in September, 1921, which were followed up by the Washington Conference, of February, 1922, a great deal has been accomplished in raising the standards of legal education. The present standards in many of the law schools are ahead of the requirements in their respective states, but the requirements for preliminary education have been raised by several states recently. Up to date, six states have announced or put into effect preliminary educational requirements of one or two years of college or its equivalent. These states are as follows: Colorado, Illinois, Kansas, Montana, Ohio, and West Virginia. The same requirement was put into effect a few years ago in the Philippine Islands. Other states are expected to join in the movement before long.

A complete statement of the rules for admission to the bar in the various states, as of January 1, 1926, is contained in the latest edition of the booklet entitled "Rules for Admission to the Bar," published by the West Publishing Company, St. Paul, Minnesota which may be obtained free of charge from the publishers.

Believing that a bird's-eye view of the requirements in the various states will prove interesting, an analysis has been made of the rules for admission to the Bar, as they exist to-day. This analysis is given below. A synopsis of the rules for admission in force on January 1, 1922 and 1924, was published in the American Law School Review for May, 1922 and 1924, respectively, which may be consulted for purposes of comparison.

The reader should bear in mind that the requirements of the various jurisdictions are liable to change at any time, and in view of the frequent possibility of revision, the complete accuracy of the information given in the following analysis or in the "Rules for Admission to the Bar" cannot be guaranteed. It is believed, however, that the information here summarized from the "Rules for Admission to the Bar" is an accurate statement of the requirements as of January 1, 1926.

CITIZENSHIP.

The rules as to citizenship are now more rigid in many of the states, in that the declaration of intention to become a citizen is not sufficient. In the majority of the states actual, bona fide citizenship is required. An examination of the statutes and regulations seems to disclose no express requirements as to actual citizenship in the states of Delaware, Iowa, Missouri, North Carolina, North Dakota, South Carolina, South Dakota, Texas, Virginia, and West Virginia. In all of these states, however, the statutes require persons admitted to the bar to take an oath to support the Constitutions of the United States and of the state, and it would seem that this requirement implies that citizenship of the United States is one of the qualifications of an attorney. Actual citizenship seems to be required in the other states, with the exception of Idaho, Nevada, New Mexico, Oregon, Utah, and Wisconsin, in which states it appears that the bona fide declaration of intention to become a citizen qualifies the applicant, provided the other general qualifications are adequate.

In Georgia, aliens who have been two years resident in the state, and have declared their intention to become citizens pursuant to the act of Congress, are eligible to admission. In Maryland the application must state the facts as to whether applicant was born in the United States, and, if not born in the United States, whether he or his parents, or either of them, have been naturalized, and, if so, the court granting such naturalization and the date thereof. In Massachusetts, an alien who has made the primary declaration to become a citizen of the United States may be permitted to file a petition to be examined, and to take the examination, but cannot be admitted until he or she has become a citizen.

RESIDENCE.

An almost universal requirement is that of actual residence in the state, whether applicant seeks admission through the regular legal examination, on diploma from a law school within or without the state, or by virtue of admission and practice in another jurisdiction. In some states, however, actual residence does not seem to be required under the express terms of the statutes or rules. In Connecticut, actual residence, or proof of intention to become a resident, is required of attorneys from other jurisdictions. The comity provision seems to prevail in the District of Columbia, whereby an attorney who, while a non-resident of the District, has been admitted to practice in another state, may, in the absence of disqualification as to actual fitness, be admitted without becoming a resident, if attorneys of the District of Columbia are admitted on the same terms in the state from which he comes. In Florida, no previous residence is required prior to the filing of the application for examination, but it is necessary for the applicant to show that he intends to become a resident and practice law in Florida. In Michigan, attorneys from other states, proving that they intend to maintain a law office and to practice in the state, may, it seems, be permitted to practice without actual

residence. New York requires that an applicant must have been a resident of the state for six months immediately preceding his application. In Ohio, actual residence of one year within the state is necessary, except in the case of attorneys admitted from other states, of whom it is required that they be residents or intend to become so.

AGE OF MAJORITY.

It is quite generally required that one seeking admission to the bar be of the age of majority. In Alabama, however, minors may be licensed after fulfilling the other requirements, if deemed by the court of sufficient maturity, character, and attainments. Connecticut has a rule whereby an applicant, who will become 21 years of age before the next following semiannual meeting of the committee, may be admitted to the examination, and, upon recommendation by the committee, admitted to the bar after he attains his majority. In Florida, minors may apply for admission, provided their disabilities of nonage have been removed by a circuit court of the state. The statutes and rules of Georgia, Louisiana, and Pennsylvania disclose no express requirements on the subject, nor do the statutes of Hawaii, except that in the latter instance the applicant must set forth his age as a part of his petition. The same situation seems to be true of Kansas, except that the place and date of birth must be given as a part of the petition. In North Carolina and Wisconsin, the applicant must have attained the age of 21 years, or show that he will arrive at that age before the next examination.

GOOD MORAL CHARACTER.

Good moral character is, of course, a requirement practically universal. The modes of proof of good moral character are, however, by no means uniform in the several jurisdictions of the United States. To analyze them all would be too lengthy a task here, and it is suggested that persons in doubt as to the mode of proof required in particular jurisdictions read the requirements as summa-

rized in the "Rules for Admission to the Bar," a copy of which may be obtained as noted in the second paragraph of this article. It is interesting to note, however, that a number of the states have made provisions in their rules for committees of "character and fitness," which are independent of the Board of Examiners, and have exclusive power to pass on the moral character of the applicant.

GENERAL EDUCATION PRELIMINARY TO LEGAL STUDY.

While in practically every jurisdiction proof of preliminary education, other than legal, is required, there is considerable lack of uniformity in the several jurisdictions, both as to the nature and extent of the preliminary education and as to the means by which it may be established. A brief note of the requirements in each jurisdiction follows.

The following jurisdictions have announced or put into effect preliminary educational requirements of one or two years of college or its equivalent: Colorado, Illinois, Kansas, Montana, Ohio, West Virginia, and the Philippine Islands.

Alabama. No fixed requirements, but the character and fitness committee has the power to pass on applicant's educational qualifications, other than legal.

Alaska. No express requirements.

Arizona. Applicant is required to state the place and character of scholastic or general education.

Arkansas. No express requirements.

California. No express requirements.

Colorado. Graduation from approved high or preparatory school, admission as regular student in approved college or university, or examination before state superintendent of public instruction in equivalent subjects, is sufficient for those making application prior to January 1, 1927. After January 1, 1927, applicant must show an equivalent of one year college acquired within the first six months of law study.

Connecticut. Graduation from approved high school, college, or preparatory school, prior to beginning law study, or examination before committee.

Delaware. Graduation from an approved college or university, or examination before Board of Examiners on prescribed subjects.

District of Columbia. No express requirements in present rules. The Bar Association has recommended that the equivalent of four years high school be required.

Florida. No express requirements.

Georgia. No express requirements.

Hawaii. No express requirements.

Idaho. Graduation from an accredited high school or examination before Board of Examiners on prescribed subjects.

Illinois. Completion of four-year high school course, on the part of one beginning the study of law prior to July 1, 1924. After July 1, 1924, diploma showing graduation from an approved four-year high or other preparatory school, whose graduates are admitted on such diploma to the freshman class of any college or university where requirements for admission are equal to those required by the University of Illinois, and a certificate of a member of a college or university accredited by the Board of Law Examiners showing completion of at least seventy-two weeks of general college work, or, in lieu of such certificate, examination before the Board of Law Examiners in an equivalent course of studies. The high school education or its equivalent shall be completed before the college studies begin, and the college education or its equivalent shall be completed before the law studies begin: Provided, that as to applicants who begin the study of law after July 1, 1924; and prior to July 1, 1926, only thirty-six weeks of college study or its equivalent shall be required.

Indiana. No express requirements.

Iowa. General education equal to that involved in the completion of a high school course of at least four years' duration. In the absence of proof of such educational qualifications, applicant shall be subject to written tests before the Board of Examiners on equivalent subjects.

Kansas. General education substan-

tially equivalent to that acquired in an accredited high school, and, in addition, the equivalent of two years' study in a general college course, which preliminary education must be completed prior to beginning the study of law.

Kentucky. No express requirements, but applicant is required to include in his application statements of his preliminary education.

Louisiana. High school education or its equivalent.

Maine. No express requirements.

Maryland. Graduation from university, college, high school, or other school having a course substantially equivalent to a high school education in Maryland, or examination by State Board of Law Examiners on equivalent subjects.

Massachusetts. Graduation from a college, or compliance with the entrance requirements of a college, or fulfillment for two years of the requirements of a day or evening high school or of a school of equal grade, or proof of equivalent education. An applicant having studied law for three years may take the regular law examination, leaving for future consideration the question of his general educational qualifications.

Michigan. Proof of general education equivalent to that involved in the completion of a four-year high school course prior to beginning law study, except that law school students may carry a deficiency of 25 per cent. up to their third year.

Minnesota. Diploma from four-year high school, or preparatory school, either of whose graduates are admitted on such diploma to the freshman class of any college or university where the requirements for admission are equal to those required by the University of Minnesota, or proof that he or she is qualified to enter same. This education must be completed before the law studies are begun. All applicants who began the study of law before September 1, 1925, shall be governed by the rules in force at that time.

Mississippi. High school education or its equivalent.

Missouri. Proof of preliminary education equivalent to that obtained

through a common or grammar school course of study, and possession of a fair knowledge of civil government, American and English literature, general history, and American and English constitutional history. Proof may be made by exhibiting the diploma of any university or college in good standing, or diploma of a high school whose graduates are permitted to matriculate at a state university without examination, or by affidavit of the principal or teachers of a high school under whom applicant has studied, or by diploma from any academy or preparatory school whose course of study has been passed upon and accepted by the Board of Law Examiners.

Montana. Satisfactory evidence of general educational qualifications required for entrance to the State University and in addition evidence of two years' work in a university or college of recognized standing, or the equivalent.

Nebraska. Proof, either by school, college, or teacher's certificate or diploma, or through examination before the Bar Commission, of general education involved in the completion of the first three years of a high school course accredited by the state department of public instruction.

Nevada. No express requirements.

New Hampshire. No express requirements.

New Jersey. At least three years before taking the bar examination the applicant must have passed his final examination for graduation in a college, university, public high school, or private school approved by the Board of Examiners, or an equivalent examination to be held by officers of the public schools under the supervision of the State Board of Instruction.

New Mexico. High school education or its equivalent.

New York. Applicants who are not graduates of colleges of good standing, or attorneys admitted in other states, are required to undergo an examination under the authority of the State University in English, three years; mathematics, two years; Latin, two years; science,

one year; history, two years; or in their substantial equivalents.

North Carolina. No express requirements.

North Dakota. No express requirements.

Ohio. A high school education or its equivalent is sufficient for applicants who register prior to October 15, 1926. Those registering between October 15, 1926, and October 15, 1927, must show an equivalent of one year of college work, and those registering after October 15, 1927, must show an equivalent of two years of college work.

Oklahoma. Educational attainments must be equivalent to those indicated by the completion of the course of study in the public high schools of the state.

Oregon. Certificate showing that applicant is a graduate of some college, high school, or other literary institution, of approved standing, or examination before the Board of Examiners.

Pennsylvania. Academic degree from an approved college or university, or examination before State Board of Law Examiners prior to beginning law study.

Philippine Islands. Applicant must file with the clerk of the Supreme Court a certificate showing that he has satisfied the Secretary of Public Instruction that before beginning the study of law he had studied in a recognized university or college of liberal arts for a period of two academic years requiring for admission thereto the completion of a four-year high school course.

Porto Rico. High school education or its equivalent.

Rhode Island. Before commencing the study of law, the candidate must have received an education equivalent to that received in a high school of one of the cities of the state.

South Carolina. The Board of Examiners requires proof in writing, by examination, or otherwise, that applicant has had a preliminary general education equivalent to that of a graduate of a high school of this state.

South Dakota. General education substantially equivalent to that involved in the completion of a high school course

of study of at least four years in extent.

Tennessee. Course of legal study must have been preceded by at least a high school education or its equivalent.

Texas. No rigid test prescribed; but, as a fair general education is necessary for the performance of the duties of an attorney, the attainments of the applicant in this regard should, in a reasonable measure, correspond to the extent of legal education required.

Utah. While no particular term of general study is expressly required, the applicant should state in detail schools attended, time of attendance, date of graduation and degrees, etc., and, if a graduate, attach to his petition a certificate from the school from which he graduated. If not a graduate of a high school, college or university, he should attach to his application credits of any school which he has attended or a statement from his private instructor, if any.

Vermont. Proof of senior high school education or its equivalent.

Virginia. No express requirements.

Washington. Proof of general education sufficient to entitle applicant to enter the freshman class of the University of Washington or of the State College of Washington, except its elementary science department.

West Virginia. A preliminary academic education equal to that required for graduation from a high school of the first class in West Virginia or its equivalent will be accepted prior to July 1, 1928, after which time applicant must show at least two years of study in a college or its equivalent.

Wisconsin. Graduates of the State University, or of a college, normal school, or academy of the state, or of a free high school of the state, having a four years' course of study or of an approved university, college, normal school, academy, or other school of another state, are exempt from preliminary examination upon production of certificate of graduation. All other persons must produce evidence of general educational qualifications, other than attendance, required for graduation from a

free high school of Wisconsin having a four years' course of study.

Wyoming. The petition of the applicant must state his general educational advantages exclusive of legal study.

PERIOD OF LEGAL STUDY.

Like the qualifications as to preliminary education, the term of legal study and the character thereof varies in the different jurisdictions. All that is here attempted to be summarized is the period of legal study in the several states, and, in general the manner in which it is to be pursued. To go into the general course of study required in each state would entail the expenditure of an undue amount of space. Where nothing is here said as to the manner in which the study of law is required to be pursued, it is because the rules or statutes of the state in question are silent on the subject.

Alabama. Eighteen months.

Alaska. At least two years in the office of a reputable attorney or in an accredited law school.

Arizona. No definite period of law study now required.

Arkansas. No express requirements found.

California. Three years in a regular day law school, or four years in a night school.

Colorado. Regular clerkship in office of a practicing attorney or judge of court of record of Colorado, or in an approved law school. Duration of study period is three years, and may be apportioned between the two modes of study.

Connecticut. Three years, after the age of 18, in an approved law school, or in an office under the supervision of a practicing attorney, or both, provided that at least one year must be spent in Connecticut, except in the case of law school graduates who are residents of the state or intend to become residents.

Delaware. Three years of study in a law school or in the office of a practicing attorney of ten years' standing.

District of Columbia. At least three years under the direction of a competent attorney, provided that study in an ap-

proved law school shall, to the extent thereof, be computed as a part thereof.

Florida. No definite period of study required, but study of certain law books prescribed.

Georgia. No express requirements.

Hawaii. Graduation from approved law school, or at least three years' study in such law school, or in the office of one or more attorneys, or partly under one method and partly under the other, for a total period of three years.

Idaho. Three years of study in a day law school, or four years in an evening law school, or a similar amount of time of study in the office of an attorney or elsewhere under proper directions. Such period of study may be spent partly in a law school and partly in an attorney's office or elsewhere.

Illinois. Three years in an approved law school, or under the tuition of one or more licensed lawyers, a portion of the time under either system being allowable. For those beginning the study of law after July 1, 1924, proof of legal education shall be made (a) by a certificate from an established law school (or law schools) accredited by the Board of Law Examiners, showing that the applicant has pursued a course of law studies in such law school (or law schools) of at least 1,200 classroom hours covering a period of not less than three years, and has passed a satisfactory examination in each of the law studies required for graduation by such law school (or law schools), which shall include the law subjects required by the Board of Law Examiners, provided the board shall not give credit for more than 432 classroom hours in any one year; or (b) by showing that the applicant has in good faith, while actually engaged in the office and under the personal tuition of a licensed attorney (or attorneys) in active practice, pursued for a period of four years, during at least thirty-six weeks in each year, a course of law studies to be prescribed by the Board of Law Examiners as the equivalent of such law school course. Such applicant shall submit to and satisfactorily pass an examination by the Board of Law Examiners

once each year during the first three years of such law office study. (c) If an applicant pursues his course of law studies partly in such accredited law school and partly under the tuition of such licensed attorney (or attorneys) he shall be allowed credit for studies in such law school upon presentation of a certificate therefrom showing he studies he has taken therein by personal attendance and that he has satisfactorily passed examinations in such studies, such certificate showing the number of classroom hours and the number of weeks of law study pursued by such applicant in such law school. He shall be allowed credit for such studies as he pursues under the tuition of a licensed attorney (or attorneys) when proof is made as provided in clause (b) above. Such an applicant shall pursue his law studies for a period of four years during at least thirty-six weeks in each year.

Indiana. No express requirements.

Iowa. Three years in the office of a practicing attorney or of a judge of a court of record of this or another state, or in a reputable law school, or partly in an office and partly in a law school.

Kansas. Three years, or longer in case of part-time work, in the office of a practicing attorney, or graduation from the Law Department of the University of Kansas, or some other law school of equal requirements and reputation. After July 1, 1926, all students must devote their undivided time and attention to the study of law. Reports as to the time devoted and the studies pursued by the office student, during the preceding half year, shall be made semiannually to the Board.

Kentucky. Two years in a law school, or in the office of a practicing attorney, or partly under one method and partly under the other.

Louisiana. Three years study of law under the direction of a reputable member of the bar of Louisiana, or graduation from an approved law school. Study in law school and under the direction of an attorney may be combined to make up the required three-year period.

Maine. Three years in an approved day law school or in a law office, but students, while pursuing the study of law in the office of an attorney or in an approved three-year law school, must not devote any part of the time to other employment. Applicants who present as qualifications only study in recognized night schools must have spent at least four full law school years at such institutions.

Maryland. Three years in the office of an attorney of this state or in a law school of the United States.

Massachusetts. Three years in an approved day law school, or four years in a night school, or three years in the office of an attorney or elsewhere under proper direction. The period of study may be apportioned between the two modes.

Michigan. Three years in a duly incorporated college or university in this or another state, or four years in a law office under the supervision of a reputable attorney. Applicant must submit proof to the Board that he or she has devoted at least four hours per day, six days in the week, and thirty-six weeks in each year, or the equivalent, in good-faith study of the law.

Minnesota. Graduation from an approved law school of Minnesota or at least four years study in the office of a resident practicing attorney. Time spent in law school may be combined with the time spent in the law office to make up the four years.

Mississippi. No express requirements as to period or manner of legal study, but a thorough test on prescribed subjects is given by the Board of Law Examiners.

Missouri. No particular period of study, but no person will be admitted to the examination unless he be a graduate of a reputable law school, or has carefully studied at least one standard unabridged text-book on subjects prescribed by the Board of Law Examiners.

Montana. Petition must contain a certificate of two reputable lawyers of this state (or the affidavits of two non-

resident attorneys) that applicant has studied law for two successive years prior to the time of making application.

Nebraska. Three years in a reputable law school, or in the office of a practicing attorney, or partly in one and partly in the other. At least one year of the office study must be in a law office of the state.

Nevada. No particular requirements as to period of study, but petition of applicant must state the nature and extent of his legal education.

New Hampshire. Three years in the office of a member of the bar in good standing or in a reputable law school.

New Jersey. Regular clerkship with a practicing attorney of the Supreme Court of this state for three years of which any portion of the time, not exceeding twenty-seven months, may be spent in attendance upon the law lectures in an accredited law school of the United States, or in the study of English law at an institution of established reputation in a country where English is the common language of the people.

New Mexico. Graduation from some law school meeting the standards of the American Bar Association or graduation from some law school not meeting such standards and having studied under some member of the bar of the state for a period of not less than one year. If not a law school graduate, applicant must have studied law for a period of three years.

New York. Four years, on the part of any person not a graduate of a college or university, either by serving a clerkship in the office of a practicing attorney after attaining the age of 18, or partly by clerkship and partly by attendance upon a law school; but every person must serve such clerkship for at least one year before examination, or after examination and prior to admission to the bar. The latter provision does not apply to persons who have completed two years in a college or university, and have thereafter attended a law school for four years. Graduates of colleges or universities must have studied for three years, either by clerkship

or by attendance upon a law school, and must as a general rule have pursued such study after graduation.

North Carolina. Two years, during the course of which certain prescribed books must have been read. Proof of study may be by certificate of a dean of a law school or a member of the bar of the Supreme Court of North Carolina under whose instruction such study was pursued.

North Dakota. Three years, either in the office of an attorney engaged in active practice in this state or under the direction of a judge of the Supreme Court, district court, or county court having increased jurisdiction in the state, or in a reputable law school in the United States, or partly in an office and partly in a law school.

Ohio. Three years in a day law school of approved standing, if entire period is spent in law studies, or four years, if entire time is not spent in the study of law or four years in the office of an attorney in active practice. In no case will one year be construed to mean less than 200 hours of actual legal instruction.

Oklahoma. At least two years immediately preceding the filing of application for admission.

Oregon. Three years in the office of a practicing attorney of this state, or in an approved law school requiring at least three years' study.

Pennsylvania. Three years, either by attendance at a law school offering a three-year course of ten hours per week for eight months per year, or partly in a law school and partly in the office of a practicing attorney, or by service of a regular clerkship in the office of a practicing attorney.

Philippine Islands. Four years' study and evidence of having completed all prescribed courses in a law school approved by the Secretary of Public Instruction.

Porto Rico. Diploma from University of Porto Rico, or from any accredited university or law school of the United States where a preparatory course is required for admission, upon presentation

of duly authenticated diploma showing personal attendance upon law classes for not less than three years.

Rhode Island. Two years in the office of a practicing attorney, or in a law school and attorney's office, on the part of persons who have received a classical education. Three years on the part of those who have not received a classical education. In either case, six months of such study must be spent in the office of an attorney in this state.

South Carolina. Two years in a law school in the United States, or in the office or under the direction of an attorney of this state.

South Dakota. At least three full years, either in the office of an attorney in this or another state, or of a judge of a court of record, or in a reputable law school in the United States, or partly in an office and partly in a law school.

Tennessee. At least one year in a reputable law school, or in the office of a reputable attorney of at least five years' standing in the Supreme Court of this state.

Texas. At least two years must be devoted to the course of study prescribed by the Supreme Court, or to a substantially equivalent course.

Utah. At least three years, either in a law school or in the office of an attorney.

Vermont. At least three years in the office of an attorney of the Supreme Court within this state, during the four years preceding the filing of application for admission, provided, that the Supreme Court, upon sufficient cause shown, may allow one year's study in an office outside the state as an equivalent for one year of study in an office within the state; provided, further, that one who has pursued a full three-year course in a law school chartered in any state, or the law department of any college or university so chartered, shall be required to study in a law office in this state for at least six months within the two years preceding his application; provided, further, that in the case of one who has pursued less than a three-year course of

study in such law school the time of such study may be allowed as an equivalent for the same time of study in an office, but the last year of study shall be in an office within the state.

Virginia. Applicant must show that within the preceding three years he has studied law for a period of two years either in a law school of this state or in the office of a practicing attorney in the state.

Washington. Three years in an approved law school, or four years under the direction of a practicing attorney approved by the board. If in an approved law school, the certificate of the dean or other officer is accepted as proof of completed work. If in a law school not approved by the board, the study must cover at least four years of 30 weeks each, with an average of at least 10 hours' classroom work each week. Students attending night classes must study at least four years of 30 weeks each, with an average of at least 8 hours' classroom work each week. In the latter case the student may, at his option, spend the fourth year in a law office. If the study be in a law office, it must be for at least 30 weeks each year, with a minimum each week of 18 hours, under the personal supervision of the attorney.

West Virginia. Three years in the office and under the direction of an attorney of this or another state, or as a resident student in an approved law school. The period of time may be apportioned between the two modes of study. After July 1, 1928, credit will only be given for study carried on as a resident student in law school certified by the Association of American Law Schools.

Wisconsin. Three years, within the five years next preceding the making of the application. May be carried on in the office of an attorney or in a law school.

Wyoming. Three years, either in or under the supervision of a law school in the United States, or under the supervision of a practicing attorney or judge of this state, or partly under one system and partly under the other.

LEGAL EXAMINATION.

The legal examinations in practically all of the states are conducted by boards of examiners or special committees, composed of lawyers of recognized standing and appointed under judicial authority. The examinations, as a very general rule, comprise groups of written questions based upon subjects prescribed by the examining committee or the court. In some instances the written questions are supplemented by oral interrogatories designed to test the applicant's general knowledge and the scope of his study and understanding. In a very few of the states the examinations are still under the personal direction of the court, namely, Nevada, North Carolina, and South Dakota; but the trend on the part of the legislatures and the courts has been to delegate the powers and duties in this respect to special committees. Fees for examination run as high as \$50, but the average examination fee is \$10 to \$15. The subjects of examination chosen by the committees of the several states necessarily vary, according to the particular local practice. Lack of space prohibits the setting forth of the legal subjects selected by the different committees, but an attempt to give full information regarding the same has been made in the "Rules for Admission to the Bar," referred to in the second paragraph of this article.

ADMISSION OF ATTORNEYS
FROM OTHER JURISDICTIONS.

Alabama. Two years' practice before the Supreme Court of a sister state.

Alaska. No particular period of practice required, but applicant must prove that he has been admitted to practice in such other state and that he is in good standing.

Arizona. No admission without examination provided for in this state, but an attorney practicing in another jurisdiction may be permitted on motion to be associated with local counsel in the trial of any particular action in the courts of this state, but only for the purpose of such case.

Arkansas. Three years' practice. A shorter period of practice is allowed, if the requirements for admission in the foreign jurisdiction are substantially equivalent to those of this state.

California. Three years' actual practice, out of the seven preceding years, in a sister state or in a foreign country where the common law prevails.

Colorado. Five years' practice, of the six preceding years provided that the requirements of the foreign state or country are equal to those in this state. Proviso does not apply to attorneys of ten years' standing, however.

Connecticut. Three years' practice before the bar of another state.

Delaware. Three years' practice immediately preceding date of application.

District of Columbia. As nearly as possible the same conditions and requirements are imposed upon an applicant from another jurisdiction as would be imposed upon a member of the bar of this District seeking admission to such other jurisdiction.

Florida. No admission without examination, but attorneys of other states may appear in particular cases in the courts of this state, when under the rules of comity of such states, attorneys from Florida are similarly permitted to appear.

Georgia. An attorney, residing in another state, having license to practice law in a circuit court therein, may be admitted to practice in the superior courts of this state, provided attorneys of this state are likewise permitted to practice law in such other state. An attorney of another state, who becomes a resident of this state, may be admitted to practice in the superior courts of the state upon showing his admission and good standing in a court of similar jurisdiction in the state from which he comes, and by submitting to such examination as to the laws of this state as said judge of the superior court may require, provided the state from which he comes admits by comity upon the same conditions a licensed lawyer of this state. Upon satisfactory evidence in support of their application, attorneys of any of the courts

of the United States, or of the highest court of any state or territory, may be admitted to the Supreme Court and the Court of Appeals on taking the prescribed oath.

Hawaii. Three years' actual practice in another jurisdiction that requires an examination for original admission to the bar.

Idaho. Three years' actual practice immediately preceding the filing of application, provided the state from which the attorney comes grants like privileges to attorneys of the state of Idaho.

Illinois. Person applying for admission in this state by virtue of admission in another jurisdiction must prove at least five years' practice in such jurisdiction and present a copy of the requirements in force in the jurisdiction in which he was admitted, from which it must appear that, at the time he was admitted, the requirements were equal to those now prescribed in Illinois. Where the requirements for admission of such state or country require less than two years of law study, applicant shall furnish proof that he has actually practiced for a period of eight years.

Indiana. No express general requirements.

Iowa. One year's practice, and, in the discretion of the court, exemption from examination on proof of period of study.

Kansas. Five years' actual practice up to the time of making application. Subject to examination in such manner as the board may determine.

Kentucky. Five years' practice in the highest court of another state or jurisdiction whose jurisprudence is based on the common law, or admission to practice in the highest court of another jurisdiction, where the requirements at the time of admission were as high as those now prescribed in this state. Persons admitted in another jurisdiction, where the qualifications for admission are not equal to those of this date, must have studied law for one year within the state, either in a law office or by attendance upon a law school.

Louisiana. No admission in this state without examination.

Maine. Three years' practice. Actual residence not required.

Maryland. Five years' experience as practitioners, judges, or teachers of law.

Massachusetts. Three years' practice.

Michigan. Three years' practice as a principal occupation immediately preceding application, and proof of intention to maintain a law office and to practice in Michigan.

Minnesota. Three years' active practice preceding application. One of less than three years' standing, who has studied law in a law school or in the office of a practicing attorney, must take the regular examination required of persons not attorneys.

Mississippi. At least five years' practice in another state where the requirements are equal to those of this state, provided such other state grants similar privileges to attorneys from Mississippi.

Missouri. Three years' practice.

Montana. Proof of practice in a foreign jurisdiction operating under the common law and where requirements are substantially equivalent to those of this state, or evidence of two years' practice immediately preceding application.

Nebraska. Proof of actual practice in a state having requirements equal to those of this state, or five years' actual practice within the ten years next preceding the date of application.

Nevada. No particular period of practice required, but proof of admission in another jurisdiction where attorneys licensed in Nevada are admitted without examination, provided the foreign jurisdiction must be one which requires examination as a prerequisite to admission and which operates under the common-law system of jurisprudence.

New Hampshire. Three years' practice.

New Jersey. No attorney from another state shall be recommended for license to practice in this state unless he shall first submit himself to the bar examination.

New Mexico. Three years' practice immediately preceding the date of application in a state or territory where the

requirements are at least equal to those of New Mexico.

New York. Three years' practice in a foreign jurisdiction and one year's law study in New York qualify the applicant for examination. Five years' practice in a foreign jurisdiction whose jurisprudence is based on the common law offer exemption from examination.

North Carolina. Five years' practice in a foreign jurisdiction. Examination not required, if the state from which the applicant comes allows similar privileges to attorneys of this state.

North Dakota. Three years' practice.

Ohio. Three years' study under the tuition of an attorney and admission to the bar or, on the part of one admitted after a shorter period of study, actual practice which, when added to term of study, makes up the three years, qualifies for examination. One admitted in the highest court of another jurisdiction, after two years' study of the law, may, upon proof of five years' practice preceding his removal to Ohio, be exempted from examination.

Oklahoma. Ex-judges of state or federal courts, or of the District of Columbia, are admitted without examination. Attorneys admitted on written examination in the highest court of another jurisdiction may be admitted without examination on proof of one year's law practice in the state from which they come. Attorneys of at least five years' standing immediately preceding filing of application may also be admitted without examination.

Oregon. One admitted in the highest court of another jurisdiction where the common law prevails, and who has practiced at least one year, may be admitted here for nine months. If no objection to his admission is filed within six months, he may be admitted permanently. He need not become a resident of the state, if Oregon attorneys are admitted in his state upon similar terms.

Pennsylvania. At least five years' practice before the highest court of another state. The Board of Examiners may, in its discretion, require the same

examination provided for all other applicants.

Philippine Islands. Five years' practice in the Supreme Court of the United States, or in any United States Circuit Court of Appeals, Circuit or District Court, or in the highest court of any state or territory, which state or territory by comity confers the same privilege on attorneys admitted in the Philippine Islands, may, in the discretion of the Supreme Court, entitle the applicant to admission.

Porto Rico. Three years' practice in any state or territory of the United States, or in the United States District Court for Porto Rico, including at least one year's practice in Porto Rico, qualify for admission without examination.

Rhode Island. More than three years' practice in another state, and six months' study in the office of an attorney of this state, qualify for examination. Six months' study in this state may be dispensed with in the case of an attorney of ten years' standing in another state.

South Carolina. Five years' experience as practitioners, judges, or teachers of law.

South Dakota. Five years' practice.

Tennessee. Examination not required where requirements for admission are equal to those of Tennessee; otherwise five years' practice required.

Texas. Five years' practice. Graduates of certain named law schools, who have been actively engaged in the practice since graduation, may also be licensed without examination.

Utah. No particular period of practice required.

Vermont. One year's practice, together with six months' residence in the county from which application is made. If applicant has had less than one year's practice, he may be admitted on examination after six months' office study in this state.

Virginia. Three years' practice.

Washington. Five years' practice.

West Virginia. No admission without examination provided for in this state.

Wisconsin. At least five years' prac-

tice within the eight years preceding the filing of the application.

Wyoming. No particular period of practice specified.

ADMISSION ON LAW SCHOOL DIPLOMA.

In the case of states not here listed, it should be understood that the regulations make no provision for admission on diploma.

Alabama. University of Alabama.

Florida. Any graduate of an approved law school chartered by the state, or the law department of any chartered university in the state, may be admitted without examination.

Georgia. Graduates of Law Department of the State University, of Mercer University, of Emory University, or of the Atlanta Law School.

Indiana. Any applicant may insist upon his constitutional right to be admitted without educational examination.

Iowa. Students in the Law Department of the State University, who are recommended for graduation by the faculty may be examined at the University by the Board and admitted without further test.

Mississippi. University of Mississippi.

Montana. Department of Law of the University of Montana at Missoula.

Nebraska. College of Law of the State University or the Creighton College of Law.

Porto Rico. Graduates of law school of University of Porto Rico or of any accredited university or law school of the United States where a preparatory course is required.

South Carolina. Law Department of the University of South Carolina.

South Dakota. Graduates of the College of Law of the State University, having been admitted to the degree of Bachelor of Laws.

Texas. Graduates of the law schools of the University of Texas, University of Virginia, Washington and Lee University, Harvard University, Yale University, Columbia University, University

of Chicago, University of Michigan, George Washington University, University of California, University of Pennsylvania, Georgetown University of Washington, D. C., and holders of Rhodes scholarships from any of the states of the United States, the Law Colleges of Oxford University, England (that is to say, any one attending those colleges in virtue of a Rhodes scholarship, who was at the time of his attendance and graduation a resident of any of the states of the United States), who shall, within two years from the date of their graduation, apply for license, are licensed without legal examination.

Utah. Law School of the University of Utah.

West Virginia. Law School of the University of West Virginia.

Wisconsin. Law Department of the State University.

CORRESPONDENCE SCHOOLS OF LAW.

The regulations of most of the states and territories are silent upon the admission of candidates who have acquired their legal education through correspondence courses, but of late years there seems to be an increased tendency on the part of the Boards of Examiners or other committees to bar from examination or admission persons who have pursued their law studies in this manner.

Connecticut. Correspondence schools are not recognized in this state.

District of Columbia. A correspondence course is not accepted as any part of the required term of study.

Florida. No particular credit is given for a degree or diploma from any correspondence school of law, but study with such a school will be accepted as study under proper direction.

Hawaii. No correspondence course, extension course, or other course or period of home study is accepted as the equivalent of the regular law study prescribed.

Idaho. No particular credit is given for a degree or diploma from a correspondence school, but study with such

school may be accepted as study under proper direction.

Illinois. Correspondence schools are not considered law schools in good standing, and credits for study pursued in such manner are not recognized.

Kansas. Same restrictions as those of Illinois.

Kentucky. Correspondence schools are not recognized in this state.

Maryland. Study of law by correspondence not accepted.

Massachusetts. No particular credit is given for a degree or diploma from a correspondence school, but study under such a school will be accepted as study under proper direction.

Michigan. The State Board of Law

Examiners does not recognize correspondence schools.

New Mexico. The taking of a law school course by correspondence is not sufficient to constitute such student a law school graduate.

North Dakota. The Supreme Court has decided that graduates of so-called "correspondence schools" are not within the meaning of the statute, and hence are not entitled to admission.

Ohio. Certificates from correspondence schools of law, or from lawyers without the state, certifying that applicant has studied under their supervision within Ohio, are not recognized.

Porto Rico. Correspondence school diplomas not recognized.

Notes and Personals

Professor Manley O. Hudson and Professor Zechariah Chafee, Jr., of the *Harvard Law School*, will be on leave of absence for the entire school year 1926-27.

Announcement has recently been made of the following new appointments on the law faculty: Sayre Macnell, A. B., LL. B., to be Professor of Law. Mr. Macnell graduated from the University of California in 1908, and from the Harvard Law School cum laude in 1911. He was President of the Harvard Law Review, and graduated at the head of his class, receiving the Fay Diploma. Since graduation he has practiced law in Los Angeles, where he has attained a distinguished position at the bar.

James McCauley Landis, A. B., LL. B., S. J. D., to be Assistant Professor of Law. Mr. Landis is a graduate (A. B. 1921) of Princeton University, where he was at the head of his class. He was also at the head of his class in the Harvard Law School, where he graduated cum laude in 1924, receiving the Fay Diploma. He was for two years an editor of the Harvard Law Review. In 1925 he took the degree of Doctor of Juridical Science at the Harvard Law School with distinction. Since that time he has been Secretary to Mr. Justice Brandeis.

Theodore F. T. Plucknett, A. M., LL. B., to be Assistant Professor of Legal History. Mr. Plucknett is a Bachelor of Arts of the University of London (1915), Master of Arts of the University of London (1917), with Glad-

stone Prize and Royal Historical Society silver medal, and Bachelor of Laws of the University of Cambridge (1920), where he had an exhibition in Emmanuel College and took the Hardiman Prize. He was Choate Fellow at the Harvard Law School in 1921-22. For two years he has been Instructor in Legal History in this school. His principal publications are: *Statutes and Their Interpretation in the First Half of the Fourteenth Century* (in the Cambridge Studies in English Legal History), 1922; *The Council in the Fifteenth Century* (Transactions of the Royal Historical Society, Fourth Series, Volume 1).

Alexander Pearce Higgins, M. A., LL. D., Whewell Professor of International Law in the University of Cambridge (England), to be Lecturer on International Law for the second half year.

The course in International Law as Administered by the Courts, and in International Law Problems will be divided into two parts. The first part, dealing with International Law in Time of Peace, will be given by Professor James in the first half year. The second part, dealing with International Law in Time of War, will be given by Professor Higgins.



Professor Kenneth C. Sears, University of Missouri Law School, who is teaching in the Yale Law School this year on leave of ab-

sence, has been appointed Professor of Law in the *University of Chicago Law School*, beginning October 1, 1926. Professor Sears will teach Agency, Partnership, Code Pleading, and Bankruptcy.

The Summer Quarter of the University of Chicago Law School will open June 21 and close September 3; the second term beginning July 29. The following courses will be given: Torts, by Professor Hall; Agency, by Professor Breckenridge, of Western Reserve University; Persons and Administrative Law, by Professor Freund; Future Interests, by Professor Bigelow; Equity II, by Professor Van Hecke, of the University of Kansas; Trusts and Equity Pleading, by Professor Bogert; Suretyship, by Professor Durfee, of the University of Michigan; and Code Pleading, by Professor Hinton.



The 1926 Summer Session of the *School of Law, Yale University*, will open on June 24 and will close September 8. The session extends for a period of eleven weeks, and is divided into two terms, of five and one-half weeks each. The following courses will be offered: Legal Analysis, Mr. Corbin; Legal and Economic Foundations of Capitalism, Mr. Commons; Jurisprudence II, Mr. Cook; Criminal Law, Mr. Cook and Mr. Woodbine; Property I, Mr. Vance and Mr. Clark; Evidence, Mr. Hutchins; Mortgages, Mr. Llewellyn; Suretyship, Mr. Corbin; Legal History I, Mr. Woodbine; Problems in Public Law, Mr. Borchard; Roman Law and Modern Developments I, Mr. Lorenzen; Conflict of Laws, Mr. Lorenzen; Public Service Law, Mr. Clark; Trade Regulation, Mr. Goble.



The Charles C. Linthicum Foundation, in *Northwestern University Law School*, the income of which is to be applied to the general purpose of cultivating research, study and instruction in the fields of the law of patents, trade-marks, copyright, and other topics of law involving the development of trade, industry, and commerce, has announced for 1926-27 and 1927-28 the following prizes: (1) For 1926-27, a sum not to exceed \$1,000, and a suitable medal, to be awarded to the author of the best essay or monograph, to be submitted by March 1, 1927, on "The Law of Radio Communication," the scope to include its aspects as a problem of International Law, and as a problem of legislation in the United States; (2) for 1927-28, the sum of \$1,000, and a suitable medal, to be awarded to the author of the best essay or monograph, to be submitted by March 1, 1928, on the subject known as "Scientific Property"; i. e., the granting of a quasi patent right to the maker of a scientific discovery. Information concerning the conditions of the award will be given

upon application to the Secretary of the Law School, Northwestern University Building, Chicago, Ill.

The corner stone for the two new law school buildings, Levy Mayer Hall and the Elbert H. Gary Law Library Building, now in course of erection on the McKinlock Memorial Campus, Chicago avenue and Lake Shore Drive, Chicago, will be laid with appropriate ceremonies, Friday, June 11, 1926. It is expected that the buildings will be ready for occupancy at the opening of the academic year 1926-27.

The Summer Session of the Law School will be conducted in the present home of the School, Northwestern University Building, Chicago. This term will begin Monday, June 21, and be concluded Saturday, August 21. Among the Summer Faculty members are Grafton Green, Chief Justice of the Supreme Court of Tennessee, lecturer on Suretyship; Walter Parker Stacy, Chief Justice of the Supreme Court of North Carolina, lecturer on Constitutional Law; Henry Riggs Rathbone, member (at large) Illinois delegation in United States Congress; lecturer on Professional Speech; Joseph Marshall Cormack, Professor of Law in Emory University, lecturer on Pleading and Practice.

Dean John H. Wigmore was absent from the Law School from March 30 to April 15, on a tour of the Eastern States. During this period he gave illustrated lectures on the World's Legal Systems before the Bar Associations of Boston, Pittsburgh, and New York City.



Professor Warren A. Seavey, of the College of Law, University of Nebraska, of which he was also Dean, has accepted appointment to the *Law School of the University of Pennsylvania*, where, beginning in the fall of 1926, he will be in charge of the courses in Torts, Evidence, and Quasi Contracts. Professor Seavey is a graduate of Harvard and has had an experience of more than twenty years of legal practice and teaching. The Law of Torts, which he will teach at Pennsylvania, has particularly engaged Professor Seavey's interest, and he is an adviser on the subject for the American Law Institute.

The Interclub competitive arguments for second year students closed March 18 with a victory by the Kent Club over the Sharswood Club. The winning club was represented by Laurence H. Eldredge and George W. Rowe, and the Sharswood Club by Thomas P. Mikkell and George F. Appel. The court was composed of Frederick Soberhelmer, Esq., Franklin Spencer Edmunds, Esq., and Ira Jewell Williams, Esq. At the conclusion of the argument the $\Phi \Delta \Phi$ fraternity presented the Law School with a mural shield, to be erected in Sharswood Hall, upon which

will be inscribed annually the names of the winners.

A movement is now on foot, headed by the friends of the late Judge John M. Patterson, of the Court of Common Pleas, Philadelphia, to create a memorial to him by an endowment fund for the support of a chair of Criminal Law and Criminology at the Law School of the University of Pennsylvania. This will make possible the bringing together under one roof and in one incumbent the teaching and research, not only of the present law, the history and the comparison of systems and theories of penology, but also of the relationship of the social sciences, psychology, and medicine to the problem of the criminal.



Beginning in August, 1926, the new rules of admission to the *School of Jurisprudence of the University of California* will go into effect. Henceforth two degrees will be offered, the J. D. degree for candidates holding the degree of A. B. or B. S. from the University of California, or an equivalent degree from some other college or university of approved standing, and the LL. B. degree for students entering with senior standing. Candidates for the LL. B. degree, however, will not receive an A. B. degree, as heretofore, by offering the first year of law work in partial fulfillment of the requirements for the Arts degree. Candidates for either of the law degrees must include in their programs courses in Roman Law, Jurisprudence, and Legal History. A thesis will be required for the J. D. degree, but not for the LL. B. degree.

Announcement was made at the Charter Day Exercises, celebrating the anniversary of the founding of the University of California, that a gift of \$100,000 had been given by Mrs. Clara Hellman Heller of San Francisco, to trustees for the establishment in the School of Jurisprudence of the Emanuel S. Heller Memorial Chair in honor of her husband. The distinction of being appointed the first Emanuel S. Heller Professor of Law has been given to Professor George P. Costigan, Jr.

The Heller professorship is the first endowed chair to be filled in the school. Two professorships in law are provided for under trusts created by Mrs. Elizabeth J. Boalt, but the trust funds have not been finally turned over to the regents. The building occupied by the school, Boalt Hall of Law, was erected by Mrs. Boalt, during her lifetime, in honor of her husband, John H. Boalt. The lawyers of California supplemented her gift for this purpose by liberal donations. The library of the school is in part maintained by funds provided by the late Jane Sather, while gifts for special purposes from friends and alumni have been numerous since the school was established in 1912.

Professor Alexander M. Kidd will be absent next year at the Columbia Law School, where he will have charge of the courses in Criminal Law. Professor Kidd has been greatly interested in Criminal Law and Criminology, and it is due to his enthusiasm and untiring industry that the School of Jurisprudence has been able to offer courses in Criminology during the Summer Session for many years and during one regular session. He has been connected with the school since 1905, and, in addition to his work on the teaching staff, has been faculty editor in chief of the *California Law Review* since 1920. He will give a course on Bills and Notes during the Summer Session at Columbia School of Law.

Professor Max Radin will spend the coming year abroad, visiting European universities to investigate problems in Jurisprudence, Roman Law, and modern Civil Law.

Professor George P. Costigan, Jr., is lecturing during the Summer Session at the Michigan Law School.

During the Intersession and Summer Session several courses in Law will be offered. A course in Commercial Law will be given by Mr. M. W. Dobrzensky, lecturer in Commercial Law, during the Intersession. Professor Calvert Magruder, of the Harvard Law School, will give a course in the Law of Partnership, and Dean Orrin K. McMurray one in Future Interests, during the Summer Session.

Dr. Herman M. Adler, State Criminologist of Illinois, Professor of Criminology and Head of the Department of Social Hygiene of the University of Illinois, is offering two courses in Criminology, and Dr. Barbara N. Grimes, Assistant Professor of Social Economics and Law in the University of California, will lecture on Crime as a Social Problem during the Summer Session.



The *University of Kentucky College of Law* will offer the following courses in the Summer Session: Common and Statute Law, Property I and II (Personal Property and Introduction to Real Property), Civil Procedure, Conflict of Laws, Legal Research, Municipal Corporations, Oil and Gas, and Wills and Administration.

The faculty will be composed of Professors Lyman Chalkley, W. L. Roberts, and H. J. Scarborough. The session will begin June 14 and continue to August 21. The courses have been arranged so as to care for those who are beginning the study of law as well as for those who are able to take advanced work in law.

Among the lecturers who have spoken at the College of Law this session have been Judge R. C. Stoll, Judge of the Circuit Court of Fayette County, on "Charges to Juries," Judge Flem D. Sampson, Justice of the

Court of Appeals of Kentucky, on "Automobile Liability," Hon. Hugh Riddell, President of the Kentucky State Bar Association, Hon. J. P. Hobson, Commissioner of the Court of Appeals of Kentucky, on "The Constitution," Hon. John C. Doolan, President of the State Bar Association, on "The Trial of Aaron Burr," Judge Lyman Chalkley, of the Law faculty of the University of Kentucky, on "The Case Method of Law Instruction," and Professor W. Lewis Roberts, of the University of Kentucky Law Faculty, on "Attempts to Codify the Common Law."

It is expected that the remodeled building which will hereafter house the College of Law will be ready for occupancy about June 1st. The library will be equipped with standard library furniture from the Library Bureau. There will be three large classrooms, all newly equipped, and five offices for the faculty members. There will also be a locker room, which will contain one hundred modern lockers and furniture that will make the place an attractive recreation room for the students. The Kentucky Law Journal will have two rooms set apart for editorial and business staffs.

The building will be entirely devoted to the purposes of the law school, and the new quarters are expected to be as satisfactory as any in the South.



The *College of Law of the University of Cincinnati* is nearing the end of its first year in its new building on the campus, Alphonso Taft Hall. The registration for the school year 1925-26 exceeded that of the preceding year by forty per cent., and a largely increased registration is expected next fall.

Dean Merton Leroy Ferson, at present Dean of the School of Law at the University of North Carolina, has been appointed Dean of the College of Law of the University of Cincinnati, beginning September 1, 1926.

The permanent faculty of the school will be increased to six, probably seven, professors for next year, and the present part-time members will probably all continue in service.

A number of new subjects, some of them elective, will be added to the curriculum, and the Moot Court practice will be greatly extended and made a part of the required course of study.

Large additions to the library have been made this year, and still larger ones will be made during the summer and early fall.



Professor H. H. Foster, of the law faculty of the *University of Nebraska*, has been appointed Dean of the Law School in place of Dean Seavey, who has resigned to accept a professorship at the University of Pennsylvania. Dean Seavey will begin his work at

the University of Pennsylvania next September.

The Summer School in Law in the University of Nebraska will be an eight weeks' session, consisting of one term, beginning June 8 and ending July 29. The following subjects will be offered: Constitutional Law; Municipal Corporations; Irrigation; Criminal Law.



The Summer Session of the *University of Texas School of Law* will begin June 9, and end August 31. There will be two terms, of six weeks each. The faculty for the first term will be Professor Ira P. Hildebrand, Dean, Professor Charles T. McCormick, Professor George W. Stumberg, Professor Frank Bobbitt, and Instructor Lucy M. Moore. The subjects given will be Trade Regulations, Equity, Admiralty, Property I, and Legal Bibliography.

The faculty for the second term will be Professor Leon Green, Professor Frank Bobbitt, Professor E. K. McGinnis, Professor R. W. Stayton, and Instructor Frank Clayton. The subjects given will be Oil and Gas, Property I, Income Tax, Criminal Law, and Equity.

Professor John E. Hallen, of the faculty, will teach in the Summer School of the University of Kansas Law School.



Stanford University Law School has announced an interesting program of instruction for the coming summer quarter, opening on June 22 and closing August 28.

For beginning students, courses will be offered in Torts by William G. Hale, Dean of the University of Oregon Law School, and in Personal Property by Ralph W. Aigler, of the University of Michigan Law School.

For second and third year students the following courses are offered: Bankruptcy, Professor Ralph W. Aigler; Mining Law, Professor Joseph W. Bingham, Stanford University Law School; Water Rights, Professor R. Justin Miller, University of Minnesota Law School; Common-Law Pleading, Professor R. Justin Miller; Damages, Associate Professor Harold Shepherd, Stanford University Law School; Bills and Notes, Professor James W. Simonton, University of Missouri Law School; Landlord and Tenant, Professor Simonton; Persons and Domestic Relations, Professor Chester G. Verrier, Stanford University Law School.



Judge O. A. Harker, who has been connected with the *University of Illinois, College of Law*, very nearly since the inception of the school, will retire at the end of the current year. No person has left his imprint upon the affairs of the Law School more distinctly than has Judge Harker. His

services have been valuable, and he has ever been devoted to the best interests of the school. His successor has not yet been appointed.

Professor Elliott Cheatham, who has been connected with this Law School for the past two years, has resigned to accept a similar position at Cornell University.

Professor O. L. McCaskill, of Cornell University, has accepted a call to the University of Illinois. Here he will have charge, as at Cornell, of the procedural subjects.

An eight weeks' summer session will be conducted, beginning on June 21. Professors Philbrick and Summers and Assistant Professor Weisger will teach. The subjects offered will be Common-Law Pleading, Mortgages, Partnership, an introductory Reading Course in Law, and two advanced reading courses.



The Senior Class of the *Law School of Georgetown University* has decided to present an oil portrait of the late Chief Justice Edward Douglas White, who was a student at Georgetown College, in the class of '65, to the Law School. The presentation will be made on May 19, 1926, the fifth anniversary of the death of the late Chief Justice. The portrait is being painted by Richard S. Meryman, head of the School of Portrait Painting of the Corcoran Gallery of Art, Washington.

The speech in presentation of the portrait on behalf of the Senior Class will be made by Martin Francis O'Donoghue, of Washington, A. B. Holy Cross '23, a senior at the Law School.



The *University of Michigan Law School* announces two fellowships, to be one thousand dollars each annually, for graduate work in law. These fellowships are open to college graduates who have completed a law school course in approved law schools. Persons filling these fellowships will be expected to enter the graduate work leading to the degree of S. J. D. The work will be largely that of intensive specialization, under the direction of the faculty, and there are practically no requirements as to attendance upon particular courses.

The Law School also announces the appointment of Mr. Hobart R. Coffey as Professor and Librarian. Mr. Coffey will devote his time exclusively, or substantially so, to the work of reorganizing and developing the law library. Mr. Coffey is a graduate of Ohio State University with the degree of A. B. conferred in 1918 and in 1922, he received the degree of LL. B. from the University of Michigan Law School. Since then he has had some practical experience in a law office, taught rhetoric a year in the University of Michigan and has spent substantially two years in graduate work, receiving the degree of J. D. from the University of Michigan Law

School in 1924. In the summer of 1924 Mr. Coffey went abroad under a traveling fellowship of the Carnegie Foundation in International Law, and carried on that work for one year. During the present year he is continuing his work in this field and is also studying European libraries and forming contacts with the law book publishers and dealers in Europe and England.



No faculty changes have been announced for the *Law School of George Washington University* for the coming year. On March 23rd, the school unveiled a portrait of the late Rear Admiral Charles H. Stockton, President of the University from 1910 to 1918, in Stockton Hall. Rear Admiral Campbell, Judge Advocate General of the Navy, delivered the address. The Law School dinner was held on April 17th with Senator Fess as the principal speaker.



A course in Statutes, with special reference to the philosophy of legislation and statutory interpretation, is being planned, and as a basis for this course, the library is adding a number of books on Statutory Interpretation, together with the latest Statutes and Codes.



Professor Howard L. Smith, *University of Wisconsin Law School*, who has been a member of that faculty for the past twenty-five years, is retiring from his position at the end of the present university year. At present he is on leave of absence, and traveling in Europe.

Mr. Maxwell H. Herriott, a graduate of the University of Wisconsin Law School, is giving Professor Smith's courses during the second semester of the present year.

The nineteenth summer session of the University of Wisconsin Law School will begin on June 21 and end on August 28. The following courses will be offered: Contracts, Real Property, Bankruptcy, Bills and Notes, Constitutional Law, Conveyancing, Evidence, Partnership, and Persons.

The second edition of Page on Wills, by Professor William Herbert Page, of the University of Wisconsin Law School, has been announced.

A seminar in Business Associations is being offered at the University of Wisconsin Law School during the second semester of the present year; the members of the seminar being graduate students in Economics and advanced students in law.

Professor Eugene A. Gilmore, on leave of absence from the University of Wisconsin Law School, who has been Vice Governor of the Philippines for the past four years, is in the United States at present on matters connected with the affairs of the Islands.

Marquette University Law School sends in the following report:

Justice Franz C. Eschweiler, of the Wisconsin Supreme Court, who was on leave of absence the first semester, has resumed the teaching of his course in Torts.

Professor Albert Houghton, who was traveling in England the first semester, has resumed his course in Conflict of Laws the second semester.

More than two thousand volumes of state reports have been added to the Marquette Law Library this year. Mr. Willard Bowman, LL. B., has been appointed full-time Librarian, to succeed Mr. Frank Hell, LL. B., who resigned to engage in the active practice of law.

Mr. Herman L. Ekern, Attorney General of Wisconsin, delivered a very practical lecture to the law students this semester on the subject of "Important Pending Litigation" wherein the state of Wisconsin is a party.

J. Stanley Smith, Insurance Commissioner of Wisconsin, also delivered a very practical lecture on the subject of "Regulation of Insurance in the State of Wisconsin."

Mr. Roy P. Wilcox, President of the Wisconsin Bar Association, also delivered a lecture upon Opportunities in the Law.

The championship trophy for interdepartmental basket ball was won by the School of Law.

In the intercollegiate debates, the majority of the members of the teams, both at home and on the Western trip, were from the Law School. Marquette University debated with the following colleges: Kent College of Law, University of Denver, University of Wisconsin, Creighton University, St. Louis University, Kansas Agricultural College, University of Wyoming, University of Southern California, Leland-Stanford, University of Arizona, and University of Texas.

Thomas E. Lyons, Esq., former Chairman of the Wisconsin Tax Commission, and member of the Commission for over twelve years, is conducting a course in "Taxation" this semester. Practicing lawyers are among his students in this course.

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In addition to the courses offered during the year 1925-26 at the *University of Notre Dame Law School*, there will be offered during the next school year courses on Mortgages, Equity Pleading, and Domestic Relations. At the coming Summer School session, which starts on June 23, 1926, the following courses will be offered: Corporations, Constitutional Law, Damages, and History of Law. It is interesting to know that architects are already at work on tentative plans for a new law building.

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The *Law School of Louisiana State University* has been approved by the Council of

Legal Education of the American Bar Association and is now included in the list of "Class A" schools. An inspection of the school was made by a representative of the Council in March last.

There will be a six weeks' Summer Session of the Law School of the Louisiana State University, beginning on June 16. The following courses will be offered:

First-Year Courses: Contracts, Associate Professor Burns; Legal Bibliography, Professor Flory.

Second-Year Courses: Partnership, Associate Professor Gore; Louisiana Code of Practice, Professor Tuillis.

Third-Year Courses: Conflict of Laws, Associate Professor Gore; Private Corporations, Professor Flory.

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Professor Jay Leo Rothschild, of the *Brooklyn Law School* faculty, has recently completed the publication of two volumes of cases on New York Practice for use in his classroom. The work, no doubt, will be of interest to all persons interested in the highly intricate subject of New York Practice.

Practice Court work is conducted in the Brooklyn Law School by Professors Edwin W. Cady and Markley Frankham, who continue in their successful career. It is interesting to note that the interest of the students is unabated, notwithstanding the fact that no credit whatsoever is given for the work. In addition to numerous graduates of the Law School and members of the Law School Faculty who have served as judges in the Practice Court this year, the following judges of the Municipal Court have served: William J. Bogenschutz, Frank J. Caffrey, Charles J. Carroll, Sidney C. Crane, John R. Davies, Edgar F. Doughty, Morris J. Eder, John R. Farrar, James J. Fitzgerald, Harrison C. Glone, Carroll Hayes, John Hetherington, Frank E. Johnson, Jacob Marks, Jacob Panken, Leopold Prince, Jacob S. Strahl, and William C. Wilson; Harry A. Gordon, City Magistrate; Louis Wendall and Edward B. La Fetra, Justices of the City Court of New York; Franklin Taylor, Judge of Kings County Court; John Knox, Judge of the United States District Court; Harry E. Lewis, Justice of the Supreme Court; and Charles J. McDermott, ex-Judge of Kings County Court.

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Beginning in February, 1927, *New Jersey Law School* will offer a one-year Pre-Legal Course to prepare students to meet the new entrance requirement of one year of college work which goes into effect in September, 1927. Two additional buildings have been acquired to take care of these classes. Mr. Alden G. Alley will have charge of the History work, and Mr. Stephen D. Stephens of

the English work. Instructors for the other departments have not yet been decided upon.

A preliminary course in Title Searching is to be offered this summer by New Jersey Law School in co-operation with the New Jersey Title Association, and an advanced course will be added in the summer of 1927. Members of the Association in various parts of the state will undertake to employ students who have satisfactorily completed this course.

New Jersey Law School has recently broken ground for an extensive addition to its library, providing both reading-room facilities and bookshelf space.

One of our graduates, Walter D. Van Ripper, has recently been appointed a Common Pleas Judge of Essex County.

On Friday evening, March 26, New Jersey Law School held a debate with Rutgers University on the subject: "Resolved, that this house favors the establishment of a united independent air force." The decision of the judges was unanimous in favor of the Law School team.

Princeton debated with New Jersey Law School on April 23 on the subject: "Resolved, that military training in American colleges is contrary to the best interests of education."



Completion of the registration figures for this year at the *College of Law of Ohio Northern University* shows a marked increase over that of last year; for instance, the winter term of last year, 1924-25, showed an enrollment of 185 students, while the same term this year carried an increase of 20, making a total of 205 registrants. Likewise the spring term of 1925 found enrolled in this school 160, while the total for the spring term of 1926 is 189, an increase of 29 students.

Owing to this increase in the number of students enrolled in the College of Law, it was found necessary to add another member to the faculty of the college. Fortunately for the school, the services of Professor C. W. Pettit, A. B. Western Reserve University, LL. B. Ohio State University, were obtained.

Judge Stephan A. Armstrong, A. B., LL. B., University of Michigan, after many years of service as practitioner, jurist, and professor, has retired, and Professor Michael B. Underwood, LL. B., Ohio Northern University, has been secured to carry on his work as professor of law.



The State of Florida continues to be an attraction for the graduates of the *Law School of the University of Colorado*, five having taken, and passed, the February examinations for admission to the bar of that

state, as against two lately in California and two in Michigan.

No changes in the law faculty to date for the coming year.

The summer session, beginning June 21 and ending August 27, divided into two terms, will offer courses, for the first term, in Constitutional Law, Damages, Insurance, Oil and Gas, and Trusts; for the second term, Domestic Relations, Municipal Corporations, Partnership, and Private Corporations. The following subjects are offered to continue throughout the summer quarter: Common-Law Pleading, Contracts, Evidence, Irrigation and Water Rights, Use of Law Books, and Wills. Professor Victor A. Kulp, of the University of Oklahoma Law School, will teach Oil and Gas. He is the editor of a collection of cases on the subject.

A question of perhaps general interest to all law schools is being fought out in the moot and practice court of the Law School. It is: Whether professional or social fraternities or sororities owning chapter houses or other property and organized not for pecuniary profit are exempt from general taxation under state Constitutions exempting all strictly charitable and educational institutions or societies. It is understood that one fraternity in the University of Colorado has paid its taxes under protest, on grounds, presumably generally applicable, that it is both charitable and educational, and at least one case is cited where, in another state, under similar constitutional provisions, a sorority was held to be so exempt. Cases of such actual occurrence form the basis of much of the practice court litigation.

Another legal fraternity has been established in the law school, the Delta Theta Phi, with thirteen initiates. The local chapter is called the Fleming Senate, after the long-time Dean of the Law School.



The vacancy caused by the lamented death of Professor Andrew W. Anderson, of the *University of Arizona Law School*, has been temporarily filled this year by members of the local bar. Hon. Gerald Jones, Judge of the Pima County Superior Court, has been in charge of the course on Constitutional Law throughout the year. Hon. Samuel L. Pattee, former Judge of the same Court, has this semester taken charge of the courses in Wills and Administration and in Trusts. A series of lectures on Legal Ethics is being given by various members of the Law Faculty and of the local Bar, under the auspices of the local Chapter of Phi Alpha Delta.

Professor Floyd R. Mechem, of the University of Chicago Law School, spent several weeks at the University of Arizona this winter. During his stay he gave a short series of lectures to members of the law student body and others on Jurisprudence. His

presence and the work he was doing on the Restatement of the Law gave a new interest in that immense undertaking among both the teachers and the practitioners of the law. He spoke at one of the regular monthly luncheons of the Pima County Bar on the work in which he was then engaged in restating the law of Agency and on the general problem of this restatement of the law.

It is hoped that during the coming summer the present Law Building will be thoroughly remodeled and made ready for occupancy and use next year, with full equipment for law work. Plans are now being considered looking toward this, with every prospect that the work will be done. When this is done, the University will have a beautiful, comfortable, and commodious home for the College of Law.

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The library of the *University of Idaho College of Law* is being enlarged by the addition of a full set of English Law Journal Reports, the New York Supplement, and the Reports of Alabama, Illinois, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, Nebraska, Rhode Island, South Carolina, and Vermont. These additions round out, almost to completion, the English and American Case Law. Sets of the leading law reviews have also been completed.

Associate Professor M. H. Merrill recently published a volume on Implied Covenants in Oil and Gas Leases. A large part of the preparation of this volume was done by Mr. Merrill in connection with his graduate work at the Harvard Law School last year.

Professor Gill is teaching the course in Private Corporations during the second semester, in order that Dean Davis may give the course in Rights in Land.

A course on Professional Ethics by Professor Harris is being offered for the first time in this school, and is meeting with a hearty response from the students.

Hon. James F. Allshie, who was a member of the Supreme Court of Idaho for twelve years, recently gave a series of lectures at the Law School on Appellate Practice in Idaho, and Hon. Lawrence E. Worstell, a member of the Idaho Industrial Accident Board, offered a series of lectures on Procedure before the Board.

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The *College of Law of the University of Florida* has enrolled two hundred and ten students this year. Next year holds prospects of a larger attendance. An addition to the law building will soon be necessary.

A course in Abstracts has been offered this year, for the first time, by Professor H. L. Thompson.

The College has no summer session, but a private course has been offered for several years by Judge R. S. Cockrell, being designed

to assist students in passing the bar examination.

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The *Missouri School of Accountancy and Law*, of St. Louis, Missouri, announces the following additions to its faculty:

Guy M. Wood, Associate City Counselor, of St. Louis, instructor on Wills and Probate and Real Property, author of *Tiedeman's Cases on Real Property*.

Albert Miller, Former Assistant Attorney General of Missouri, instructor on Criminal Law.

F. Schwartz, LL. B., instructor on Bills and Notes.

Urban Fellenstein, B. C. S., instructor in Accountancy and Economics.

This school is completing in June its fourth year of activity, and tenders courses in all branches of Accountancy, English, and Economics, as well as a complete law course.

The officers and department heads of the school remain as heretofore, namely: W. Havard Perkins, Dean; Francis L. Gillespie, head of Law Department; E. J. Brennan, head of English and Economics Department.

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During the Summer School of *Drake University Law School* courses will be offered in Bills and Notes, Trial Practice, Constitutional Law, and Trade Regulations. The Law School during the summer will be under the supervision of Dean A. A. Morrow, of the Commerce School. Professor A. M. Tollefson, of the Department of Political Science of the University of Kansas, will teach the course in Constitutional Law. Dean L. S. Forrest has resigned, to accept a position in another law school.

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William J. Stevenson, vice president and trust officer of the Minneapolis Trust Company, has been elected secretary of the *Minnesota College of Law*, to fill the vacancy caused by the recent death of the late C. Louis Weeks. Mr. Stevenson is instructor in Uses and Trusts.

Judge Charles Burke Elliott, former Justice of the Supreme Court of Minnesota and former Justice of the Supreme Court of the Philippine Islands, has been elected a member of the Board of Trustees in place of the late C. Louis Weeks. Judge Elliott is instructor in International Law and Insurance.

Hon. Horace D. Dickinson, senior Judge of the Hennepin County District Court, has been added to the faculty as instructor in Equity.

Another addition to the faculty is that of Hon. E. A. Montgomery, Judge of the Hennepin County District Court. He will lecture on Municipal Corporations and Taxation.

Mr. R. H. Fryberger, member of the law firm of Joss, Ohman, Fryberger & Parker, has been elected a member of the faculty as instructor in Bankruptcy, in place of Referee in Bankruptcy Alexander McCune, who has resigned owing to stress of business and failing health.



The faculty of the *Y. M. C. A. Law School, Minneapolis*, will remain, with few changes. Judge Gunnar Nordbye will carry Corporations, a year subject. Judge Clyde R. White will carry Constitutional Law, a year subject.

Scholarship prizes will be awarded to honor persons of respective classes, one of the prizes being Black's Law Dictionary presented by the West Publishing Company to the honor person of the Sophomore class.

The Alumni Association will sponsor a spring banquet May 7, at which there will take place a contest in speaking, taken part in by representatives of the classes. Prizes will be awarded to winners.

Commencement of the *Y. M. C. A. College of Law* will occur Thursday, May 27, a dinner commencement. Prof. R. L. Rottschaeffer, University of Minnesota Law School, and Hon. Ray P. Chase, State Auditor, will be speakers.



The new building which will house the class rooms of the *St. John's College Law School* (Brooklyn) will undoubtedly be ready for occupancy by August 15, 1926. St. John's College School of Law will be one of the few law schools in New York City occupying a building designed primarily for school purposes. Particular attention has been paid to the ventilating and lighting of the class rooms. One of the features of the new building is an automatic ventilating system, which will insure sufficient fresh air at all times. The administrative offices and library will be retained on the third floor of the Terminal Building, 50 Court street. There will also be a reception room for the women students and a general study room for the men. When the new building is completed, the school will have at its disposal approximately 28,000 square feet of space.



Lectures on the law of public utilities were delivered in the *Law School of the University of Georgia* during January, by Hon. W. T. Guernsey, General Counsel for the Bell Telephone Company. Lectures on this subject, for April, are scheduled to be delivered by Hon. Newton Watkins, of the Atlanta bar.

Hon. George W. Napier, Attorney General of Georgia, lectured, in February, on the State Government.

The usual courses will be offered in the Summer School, and credit given.

The *University of Tulsa* will graduate its first law class June 10. This school was taken over by the University of Tulsa some three years ago and its rapid growth has assured its success. The faculty is composed of twenty members who are the leaders of the Tulsa County Bar. Special courses have been added in Indian Land Title and Oil and Gas Law. These subjects are being taught by Lawrence Mills, who is the author of a book entitled "Mills on Indian Land Titles," and also the author of a work on Oil and Gas Law. Mr. M. M. Mahaney, who is the author of a book entitled "Mahaney on Taxation" will be a new addition to the faculty next year. All these books are widely used in Oklahoma.

The University of Tulsa is located in the heart of the Mid-Continent oil field, and the subjects above referred to are of special importance in this section of the country.

Judge Hudson has been assigned to the subject of Moot Court, and his experience on the bench makes him a valuable teacher for this subject. A new course in Federal Procedure and Jurisdiction, with Mr. John Ladner as teacher, is also given. Mr. W. E. Green is teaching the subject of Briefing and Legal Bibliography.



The Law School Faculty of the *University of Utah* is now engaged in employing two additional full-time men for next year. Negotiations are now being carried on with two excellent men, but the contracts are not as yet signed. One of these men will teach the Property courses, and the other will handle the courses in Agency, Partnership, Persons, and kindred subjects. The library now comprises over 5,000 live volumes, and during the summer it is hoped that an additional 2,500 volumes will be secured, so that the school may successfully seek admission into the Association of American Law Schools this fall. Eighty men are at present enrolled in the school, taking full-time law work.



The *Law School of Washburn College, Topeka, Kansas*, offers courses in law during the Summer Session. The courses offered will be taught by Dean Harry K. Allen, Professor T. W. Hughes, and Professor J. R. McBride, and will correspond in subject-matter and in number of credit hours to the same courses offered during the regular session. Following is the calendar and schedule of courses for the Summer Session of 1926.

First Term: Oil and Gas and Wills, Dean Allen; Sales, Prof. McBride.

Second Term: Quasi Contracts and Municipal Corporations, Prof. Hughes; Partnership, Prof. McBride.

A series of special lectures on New York Practice was given this spring to the Senior and Junior classes at the *College of Law of Syracuse University* by Justice Leonard C. Crouch of the New York Supreme Court.

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Professor David G. Hunter has been added to the faculty of the *Temple University Law School*. Professor Hunter gave the course on Decedents' Estates to the third year class this spring.

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The *San Francisco Law School* reports that one hundred and five students registered for first year law, and that the total registration of students was two hundred and thirty-five.

Mr. Herbert W. Erskine, A. B., LL. B., and Mr. David E. Snodgrass, A. B., LL. B., were appointed to the faculty staff this year. Mr. Erskine is teaching the subject of Equity, and Mr. Snodgrass the second section of the first year in Contracts.

A more elaborate moot court practice has been arranged for third year students.

Commencing with the 1925-26 school year, candidates for graduation are required to attend a law review course of approximately one hundred hours. The scope of this newly instituted course is confined to that part of the school curriculum prescribed for the first three years of the four year law course.

Summer sessions, of six weeks' duration, will commence on Tuesday, July 6. The courses offered are: Admiralty, Quasi Contracts, and Public Speaking.

At the commencement of the 1925-26 school year Mr. Cedric L. Brash was appointed Registrar.

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There will be no changes in the faculty of the *Akron Law School* for the coming year. With one exception, the present teachers have served since the foundation of the school six years ago last fall. Many students have already enrolled for the fall class, probably because of the general learning requirements being recently raised by the Supreme Court of Ohio. The school expects an unusually large enrollment next fall. A ten weeks' summer course will be offered this year in certain subjects.

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The *University of Omaha* has pending at present a proposition for the purchase of Fort Omaha, an eighty-acre tract. If the purchase is made the Law Library will immediately be moved to the down-town location of the School of Commerce and the Night Law School, and arrangements made to hold the Moot Court classes at the down-town location instead of at the University

proper. At present the classes in Brief-Making are making use of the Douglas County Bar Association library.

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A number of important changes have been made in the curriculum of the *National University Law School*. The undergraduate courses are given during four terms each calendar year, each of eleven weeks in duration, except the fall term, which begins October 1 and concludes at the Christmas holidays, a period of about twelve weeks. No holidays are given at Easter.

The summer term commences June 15 and concludes August 31. During the coming summer, courses will be offered upon Elementary Law, Personal Property, Marriage and Divorce, Cases on Torts, Cases on Quasi Contracts, Legal Ethics, Private and Municipal Corporations, Equity Pleading, and the Preparation of Legal Documents, and a comprehensive review course, covering the principal first year subjects.

Among those added to the faculty for the undergraduate school may be mentioned Prof. J. B. Keeler, of the Interstate Commerce Commission, who conducts the course on Carriers; Hon. Henry G. Rathbone, Representative at Large from the State of Illinois, who conducts the course on Criminal Law; and Prof. W. Clark Taylor, who has the subject on Wills and Administrations. Prof. Taylor was for many years the Deputy Register of Wills in the District of Columbia.

The postgraduate work has been greatly enlarged, and a separate graduate department has been established. There is a one-year course leading to the degree of Master of Laws, and a two-year course leading to the degree of Doctor of Civil Law. There is also an undergraduate course leading to the degree of Bachelor of Civil Law. The University is building up this department, and extensive courses are conducted upon Jurisprudence, Roman Law, the History of Roman Law, Modern Civil Law, the History of the English Common Law, International Law, International Claims, and other allied subjects.

There are also included in the graduate department a number of special courses, among which may be mentioned a course upon Court Auditing, by Judge Davis, the auditor for the Supreme Court of the District of Columbia; Government Contracts and Claims, by Assistant Attorney General Anderson; Federal Tax Law, by Prof. McCawley; the Jurisdiction and Practice of the Federal Trade Commission, by Prof. Clinton Robb; Anti-Trust Laws and Unfair Competition, by Prof. Haycraft; Banking Law, by Prof. Juchhoff; Medical Jurisprudence, by Dr. Percy Hickling, the alienist for the District of Columbia; and Patent Law. Among the additions to the faculty since the last

catalogue was published are Thomas E. Robertson, United States Commissioner of Patents, himself a graduate of the National University Law School, and Judge Lobingier, who was Judge of the United States Court in China and in the Philippine Islands, and is now a Special Assistant to the Attorney General.

There is instruction offered over a period of five academic years, but students are still permitted to take the Bachelor's degree at the conclusion of three academic years, although all classes in the Law School are held in the late afternoon and evening.

The attendance at the Law School during this school year has been in excess of eight hundred students, over ninety-eight per cent. of whom are employed during the day, by far the greater number of them in the United States departments.



The services of Mr. L. E. Farley, a member of the Memphis Bar, have been secured to instruct in the *University of Memphis Law School*. After spending seven years at the University of Mississippi, where his father was Dean of the law school for a number of years, and graduating with high honors, Mr. Farley won the Rhodes scholarship, and, after staying three years at the University of Oxford, England, he received a postgraduate degree. The summer term will begin May 24, and run for three months. There will be offered, during this course, Contracts, Corporations, Constitutional Law, Bankruptcy, and Criminal Law.



Clarence Darrow, of Chicago, and Hon. Bainbridge Colby, ex-Secretary of State, delivered the commencement addresses last year at the *John Randolph Neal College of Law* at which time the degree of Doctor of Laws was conferred upon them. This, the third year of the school, has been an extremely successful one, and about twenty students will be prepared for the State Bar Examination in June. The advanced course, leading to the degree of Master of Laws, has been suspended for this year, but the enrollment for next year already promises its reinstatement and continuance. From time to time special lecturers have given instruction on Bankruptcy, Pleading and Practice, Medical Jurisprudence, and Automobile Law. The school is deeply indebted to Mr. J. Arthur Atchley, member of the Knoxville Bar, for his splendid lectures on Criminal Law and Procedure.

Bern J. Henry, LL. B. '24, has made additions to the school library which have been of great assistance to the students. An advanced course on Constitutional Law was the only new course added this year and is being taught by Dr. Neal. Mr. Franklin

Reynolds, of Mt. Sterling, Kentucky, has been Secretary of the school this year. Mr. Cecil D. Meek and Mr. Perry E. Daly, graduates of the school and members of the Knoxville Bar, will soon start their quiz classes, in view of preparing the senior class for the Bar Examination.



Southwestern University School of Law, Los Angeles, will graduate thirty-eight with the degree of Bachelor of Laws and three with the degree of Juris Doctor on June 10. This is the largest graduating class in the history of the school up to the present time. The total registration for the past year was four hundred and sixty-three.

Summer Session will open on June 14 and end September 4. The following courses will be covered: Mortgages, Bailments, Contracts, Insurance, Personal Property, Torts, and Legal History.

One year of postgraduate work, leading to the master's degree in law, will become available in the year 1926-27 for those holding the Bachelor's degree from this school, or from any other school of substantially the same requirements for entrance and graduation.



Conciseness of expression as a valuable asset to the attorney in court was emphasized by Judge E. S. Matthias, of the Ohio Supreme Court, in an address recently at a dinner meeting of the students and faculty members of the *University of Dayton Law School*. The speaker held the essentials for success to be intellect, industry, and integrity.

John C. Shea, Dean of the College of Law of the University, acted as toastmaster. He paid tribute to Common Pleas Judge Robert C. Patterson, member of the faculty, who recently made public his intention to resign from the bench.



Golden Gate College, San Francisco, Cal., has added to its faculty two excellent men—Clinton F. Stanley, LL. B. George Washington University Law School, and Forrest M. Pearce, J. D. University of California Law School. Mr. Stanley has also had a year and a half in Education and Sociology at Iowa University and is a star basketball player. For three years he was in the service of the United States Veterans' Bureau. Mr. Pearce has had experience in private teaching and coaching, and was a varsity wrestling champion.

Beginning January, 1926, important additions to the curriculum have been made. The separate pre-legal course will not be given again, but the substance of that course has been incorporated into the regular curriculum.

A regular nine-week Summer Session has been instituted. All Summer Session classes are open to regular students.

The first term of law will open three times a year: January, May, and August. The law courses offered in the Summer Session are as follows:

First-Year Course: Domestic Relations; Conflict of Laws.

Second-Year Course: Agency; Trusts.

Third-Year Course: Legal Bibliography; California Practice.



Harold S. Irwin has been added to the teaching corps of the *Dickinson School of Law*, Carlisle, Pa. He is a graduate from the school of the class of 1925. Besides assisting in the teaching of Real Property, he gives a new course on Jurisprudence and a course on the Fundamental Conceptions of the Law, using Terry and Salmond as textbooks.



Hon. Scott Wilson, Chief Justice of the Supreme Judicial Court of Maine, delivered a course of six lectures at the *Boston University Law School* on the subject of Legal Ethics.



Below is given the faculty for this year of the *Jefferson School of Law*, Louisville, Ky., and the subjects which each member teaches: Judge Thomas R. Gordon, Dean, Constitutional Law; Torts. Benjamin F. Washer, Corporation Law; Wills and Administration. James P. Gregory, Real Property; Moot Court; Ethics. Shackelford Miller, Jr., Secretary, Contracts; Equity Jurisprudence. Loraine Mix, Criminal Law. Robert P. Hobson, Evidence; Domestic Relations; Sales. S. Merrill Russell, Pleading and Practice. John T. E. Stites, Partnership. Ewing L. Hardy, Negotiable Instruments; Bailments and Carriers. Robert E. Grubbs, Registrar, Agency.

The next session of the Law School will begin September 20, 1926.



The new school building of the *Kansas City School of Law*, which is being erected at 913 Baltimore avenue in Kansas City, will be ready for occupancy by June of this year. It is hoped to hold the next graduation exercises in the new building and have the dedication ceremony at the same time. The new law school building is being built at a total cost of \$170,000.



Mr. John Joseph Burns has been appointed to the faculty of the *Portia Law School* (Boston), to teach the subject of Comparative Jurisprudence and Legal History in the new

Master's course. Mr. Burns is a graduate of Boston College and Harvard Law School, and is a candidate for the degree of Doctor of Juridical Science at Harvard this June.

As a result of the signing by Governor Fuller, on March 26 last of the bill authorizing the school to grant the degree of Master of Laws, the following courses leading to that degree are announced to begin next September: Public and Private International Law, by Prof. Bruce Wyman; Constitutional Government and Administrative Law, by Dean Arthur W. MacLean; Comparative Jurisprudence and Legal History, by Prof. John J. Burns; Brief-Making and Court Procedure, by Prof. Ralph H. Willard. This new graduate course will occupy one academic year of thirty-three weeks, of eight class hours per week, and will require a written thesis in addition to written problems, quizzes, and examinations.

The sixth annual *Portia Law School* night, at the Pop Concert given by the Boston Symphony Orchestra, was held in Symphony Hall on Friday evening, May 7, at which about five hundred members of the faculty, alumnae, and undergraduates were present.

The principal address at the fourteenth annual Commencement Exercises, to be held in Ford Hall, Boston, on Wednesday evening, June 2d, will be delivered by Hon. David I. Walsh, ex-United States Senator and former Governor of Massachusetts, at which time the degree of Bachelor of Laws will be conferred upon about seventy young women members of the graduating class.



Dean Gleason L. Archer, of the *Suffolk Law School*, was recently the guest of Atlanta Law School, in Atlanta, Georgia, where he delivered several lectures. While in Atlanta, Dean Archer was tendered an honorary banquet, which was attended by Governor Clifford Walker of Georgia, Chief Justice Richard B. Russell, of the Supreme Court, and a distinguished array of jurists and lawyers.

Final figures for the year 1925-26 show a total attendance this year in Suffolk Law School of 2,204 students, 1,093 of whom are in the freshman class.

The bar examination record of the school in Massachusetts continues to show a very high percentage. Exactly two hundred and fifteen Suffolk men took the January, 1926, bar examination and one hundred and sixty-eight of them were admitted. It is interesting to note that in this list were one hundred men who passed the bar in July, 1925. Owing to the cancellation of that examination for alleged fraud on the part of some, all successful applicants were obliged to repeat it in January. Suffolk was the only law school for men from which every candidate who passed in July submitted himself for re-

examination in January. Of the one hundred Suffolk men re-examined, ninety-eight were at first reported as successful, but the remaining two were sworn in March 16, making the school record in this respect 100 per cent.



The *University of North Carolina Law School* will hold a regular summer session. The courses will cover a shorter period this year than last, extending from June 17 to July 30; but more intensive work will be given during the six and a half weeks, as each subject will be given eight hours a week. Both advanced students and those beginning the study of law may register for two courses and receive three semester hours' credit for each course completed, or six semester hours' credit during the term. Personal Property and Persons will be offered to the first year students, and Quasi Contracts and Persons to those of the second and third year classes. The regular faculty will be supplemented by the addition of Judge George W. Connor, Associate Justice of the Supreme Court of North Carolina, and Mr. Kemp D. Battle, practicing attorney of Rocky Mount, N. C.

Following the custom of past years, the Law School Association planned for this year a series of lectures to be given by prominent judges and lawyers of the state. The first two were given in March—one by Judge L. R. Varner, recently retired Associate Justice of the North Carolina Supreme Court, on "Pleading and Practice in Superior Courts"; the other by Judge J. Crawford Biggs, retired Superior Court Judge, on "Some Phases of Federal Court Procedure." Others will be given during the spring months.



The *Y. M. C. A. Law School, Dayton, Ohio*, opened late last fall, and at present has only a first year class. The school is now organizing a complete law faculty and curriculum, and will publish their new catalogue early in June. It is planned to construct a four-year course, covering nine hours a week instruction, for two full semesters. The faculty will be composed of lawyers who are graduates of the various law schools over the country, and several judges of the city of Dayton are included on the staff.

The following courses are being given this year: Contracts, Criminal Law, Property, Torts, Agency, Common-Law Pleading, and Code Pleading.



The *Lincoln College of Law, Bakersfield, Cal.*, in addition to retaining the present members of the faculty, has added to its faculty Norman F. Main as instructor of Bills and Notes, and Hon. Edward V. Jones as instructor of Agency and Criminal Law. It is planned to add also a course on Logic and

Ethics in Public Speaking. The course has been lengthened from four to five years. The classes are held two evenings a week for two years and one-half.



A series of lectures were given to the students of the *Atlanta Law School* this spring by Dean Gleason L. Archer, of the Suffolk Law School, Boston. The subjects of the lectures were "The Common Law" and "The Suffolk Method of Legal Education, as Distinguished from the Case Method."



Professor Frederick L. Lusk, of the *University of North Dakota Law School*, resigned from the school last April to take a position with the United States government in the Treasury Department. Professor Lusk had been teaching the subjects of Negotiable Instruments, Torts, Agency, Sales, and Suretyship. These courses will be handled by local attorneys for the balance of the year.



Work has begun on the extension of one of the buildings of *Wake Forest College* to provide classrooms for the law school and also a new library for the law school library. It is planned to add several thousand volumes to the law library. The new addition will be completed by next September.

Of the 86 persons admitted to practice in North Carolina last January, 46 were from the Wake Forest College Law School.

Dean Gulley will complete in June his thirty-second year of service as a teacher in the Law Department of Wake Forest College. The Summer School will open June 8.



The *Tri-State College Law School, Angola, Indiana*, has this year the largest attendance in the history of the school. In addition to the regular prescribed law course, many of the law students are taking one branch in the Literature Department of the College each term; Psychology being one the extra subjects which is most popular. Instruction in Public Speaking is given to all students in the Law Department without extra charge by Professor J. O. Rose. The students have organized a Blackstone Club, which meets each week and discusses, either in debates or otherwise, subjects specially interesting and useful to students of law. The Blackstone Club issues each term a small magazine called "The Advocatus." The Club has recently elected officers for the coming term. President, Philip Wm. Caporale; Vice President, Sidney Kaltz; Treasurer, Isabelo Quina; Master of Arms, Bradford.

The summer term of the Law School begins on June 7.

Mr. John G. Driscoll, Jr., resigned as Dean of the *Law School of the University of Wyoming* on March 15 and has entered the practice of law with Gordon Gray, San Diego, California. Since Mr. Driscoll's resignation, Mr. Kinnane has been made Chairman of the Law School Faculty and is in charge of the Law School.

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Mr. George J. Thompson, of the *University of Pittsburgh Law School*, has recently been appointed to the faculty of the Cornell University School of Law.

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There will be no changes in the faculty of the *School of Law, University of Alabama*, for the coming year. Associate Professor R. E. Christian has been promoted to the rank of Professor of Law.

The only change in the curriculum is the reinstatement of the course in Domestic Relations.

The program and instructors for the eight-week Summer Session will be as follows: Contracts, Dean A. J. Farrah; Extraordinary Legal Remedies, Professor R. E. Christian; and Personal Property and Workmen's Compensation, Professor J. V. Masters.

Dean Farrah has been appointed a member of the State Board of Law Examiners for Alabama. Alabama has adopted a statute which makes the bar a self-governing body, with full control over admissions to and exclusions from the profession. The organization through which the bar functions is the Board of Commissioners of the State Bar.

Recently Hon. N. T. Guernsey, a vice president of the American Telephone & Telegraph Company, delivered a very interesting and instructive series of lectures on the Regulation of Public Utilities. Mr. Guernsey has promised to give another series of lectures the coming year.

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No changes have been made in the regular faculty of *Northeastern University, School of Law*, this year.

Melville F. Rogers, D. D. S., LL. B., has been added to the staff to assist in quiz work.

Judge Arthur P. Stone is giving his lectures in Legal Ethics again this year. The course has proven to be very popular and is doing incalculable good in fostering worthy ideals of the law and proper ethical standards.

Approximately 175 men will receive their LL. B. degrees at Commencement this June.

The *Lamar School of Law, Emory University* has arranged a summer session which will offer sufficient courses to permit both beginning and advanced students to secure a full schedule of work. An effort has been made to include certain courses which will not be open to students during the regular year, and which may also be of special interest to members of the bar who feel the need of further preparation for certain lines of practice.

All the members of the faculty are expected to continue on the staff the coming year. Professors Bryan, Caldwell, and Quillian will teach in the summer session. Professor Caldwell is preparing the manuscript for a work on Taxation designed to aid the attorneys of the state in the problems they encounter in their practice in that field. Professor Cormack has joined the law faculty of Northwestern University for the summer session and will teach the summer Pleading and Practice course in that institution. Dean Hilkey will devote the summer to research work in legal history.

Emory University has just completed its endowment campaign in Atlanta with the city's having contributed its full quota of seven hundred and fifty thousand dollars. The objective of the University is the increase of the present endowment by ten million dollars, and a considerable portion of the amount has already been raised. A liberal portion of the endowment will be devoted to improving the facilities of the Law School, including its library and teaching staff.

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Judge Paul W. Gullford has been assigned the work in Evidence and Court Practice at the *Northwestern College of Law, Minneapolis*.

This summer the Northwestern College of Law will offer a summer course which will be adapted to meet the needs for the students enrolled. The Academic Department will offer a night school course, consisting of twelve (12) weeks.

This year the graduating class numbers forty-five (45). The Baccalaureate service will be held in the Simpson Methodist Church, conducted by Dr. Roy L. Smith. John E. Palmer will give the graduation address on June 7th.

Judge Royal A. Stone of the Supreme Court, spoke at the all School Convocation, April 10th. His address covered the relationship of the prospective lawyer to the legal profession.

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